

**ORIGINAL**

**No. 12053**

*Docketed*

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**United States**  
**Court of Appeals**  
for the Ninth Circuit

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**JULIUS WILD,**

Appellant,

vs.

**UNITED STATES OF AMERICA,**

Appellee.

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**Transcript of Record**

**(In Two Volumes)**

**VOLUME II.**

**(Pages 265 to 650, Inclusive)**

Appeal from the United States District Court  
for the Northern District of California,  
Southern Division



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(Testimony of Robert E. Hughes.)

Q. What do you know about that of your own knowledge?

Mr. Campbell: Well, now—

The Court: Is there any claim made in the statement or records to the Government in connection with the usual deductions for that?

Mr. Campbell: We have allowed everything claimed in the returns by way of contributions, your Honor. I don't think there is any issue there.

Mr. Belli: I think we can show they were far in excess of that in the return, your Honor.

All right, we will ask him that.

Q. Now, with reference to the magnitude of his—what do you call it—I have used the term “reinsurance”, where an insurance company takes too heavy a load, and they place it—

A. Lay-offs.

Q. Lay-offs?                      A. Lay-offs.

Q. Tell us about his lay-offs. Who would he place those with?

A. Well, there was three books in town, and when Bay Meadows was running, why, he laid off at the lay-off place at Bay [272] Meadows. When Tanforan was running, the same there.

Q. Now, with reference to these sleepers, who had charge of the sleepers?

A. In '41, '42, and '43, Mr. Krakauer did.

Q. Did you at any time, with any of the other employees, actually put sleepers into the envelopes and watch their transit in the business?

A. Yes, sir.

(Testimony of Robert E. Hughes.)

Q. What happened to them?

Mr. Campbell: Now, just a moment.

Let's lay a foundation here.

Mr. Belli: All right.

Q. Tell us when you did this.

A. Well, I would have to start in telling you why.

The Court: All right.

Mr. Belli: Q. Yes?

A. It was the custom down there that when a sleeper was turned in to Mr. Wild in the years before that, and even in, I would say, 1941, that Mr. Wild would open that sleeper, the envelope, and would distribute it amongst the five employees. Well, naturally, that was a little extra money, and we were always looking forward to it, and we would all keep track of any sleepers that was left over.

If I may say, the four of us back there—Mr. Krakauer, Mr. Collard, Mr. Koster, and myself—would keep track of [273] that, because after all, that was pin money, as far as we were concerned, and we looked forward to that extra revenue.

Well, for a long while, why, we got those sleepers, and fairly consistent. And then as time went on, why, it became less, the sleepers became shorter and shorter and shorter. So we couldn't figure out why. We knew there was just as many bets hanging over from the previous times.

So Mr. Koster and myself got together, and we made a sleeper, and we put it in there and watched it.

(Testimony of Robert E. Hughes.)

Mr. Campbell: Let's have the time, if the Court please.

The Witness: This was in 1941, about in either June or July.

A. (continuing) And we watched for that sleeper to be distributed, and it was not distributed.

And there was an entry made of those sleepers in a book, this same book that so mysteriously disappeared—that is—

Mr. Campbell: I ask that the words "mysteriously disappeared" be stricken, if the Court please.

The Court: That may go out.

A. (continuing) —that cannot be found.

Mr. Belli: Q. That is better.

A. And it was also placed in that book; it was a large book, about the size of Mr. Belli's book there (indicating), and there were several compartments in there. And although we [274] were very seldom allowed to look in that book, why, on one or two occasions I was able to get in there and look in there when Mr. Wild and Mr. Kraukauer and myself were checking up the amounts, and there was no record of that sleeper in there, which made the rest of the boys and I very much disappointed.

And at the time we mentioned it to Mr. Wild, but Mr. Wild—

Mr. Campbell: Now, just a moment.

I am going to object to any conversation, if the Court please.

(Testimony of Robert E. Hughes.)

The Court: All right.

Mr. Belli: Q. Did you mention it to Mr. Krakauer? A. No, sir, we did not.

Q. Did Mr. Krakauer have charge of that book?

A. Yes, sir.

Q. And was that book locked up any place?

A. It was locked up in his bottom drawer.

Q. That is the last place you saw it?

A. Yes, sir.

Q. Now, with reference to Julius being in hock, do you know anything about him going to—was it Maxferd's, or Manford's? A. Maxferd's.

Q. Do you know anything about that of your own knowledge? A. Only that I— [275]

Q. Let me stop you just a moment.

Maybe for the sake of time, counsel, do you have a record of his visits to the other uncle, Maxferd?

Mr. Campbell: The Maxferd man is on subpoena to come back. We can bring him back if you wish.

Mr. Belli: I mean, in order to show the transaction.

Mr. Campbell: Yes, to show the loans to Maxferd, and the repayment, yes.

Mr. Belli: Then it won't be necessary to go through it with him.

A. As far as I am concerned, if I may say—?

Mr. Campbell: I doubt if he is competent to testify.

The Witness: I wouldn't be competent, outside of what Mr. Wild told me, by hearsay.

Mr. Belli: All right.

Q. How about anybody else? Was he borrow-

(Testimony of Robert E. Hughes.)

ing from anybody else during this period of '41, '42, and '43?      A. Only by hearsay, sir.

Q. Well, could you give us even the names, in hearsay, and we won't take it for substantive value, but as a point to check from?

Mr. Campbell: I will object, if the Court please.

The Court: Sustained.

Mr. Belli: All right.

You may cross examine. [276]

Mr. Campbell: Pardon me.

### Cross Examination

Mr. Campbell: Q. Mr. Hughes, when did you first go to work for Mr. Wild?

A. About approximately 1931.

Q. And you worked for him there until when?

A. As long as the book was open, until about 1943.

Q. When, in 1943?

A. Well, the exact date I do not know, and the only time, the only way I could have established it is when my handwriting stopped on those tickets (indicating).

Q. Well, can you establish it?

A. Yes, sir; in May, 1943.

Q. I will give you the three sets of cards, particularly the last set for the year 1943 (handing cards to the witness), and I will ask you if you can establish the date?

A. According to the last time here, the only way I can check it—because I do not keep records



(Testimony of Robert E. Hughes.)

on times I went to work, unless they are approximate dates—would be on the 5th month and the 15th day of 1943.

Q. That will be May 15, 1943?

A. That's right.

Q. Those are the last entries you made?

A. That is the last entries, as far as I know, that I have made. [277]

Q. And to the best of your recollection it would be immediately after that that you left, is that correct?

A. That's right.

Q. Now, you say with reference to these sleepers, that the record of those, and the sleepers themselves, were kept by Mr. Krakauer?

A. That's right.

Q. And you have described some instance in 1941—June or July you said?

A. That's right.

Q. When you and Mr. Koster put in a sleeper that you didn't hear from again, is that right?

A. That's right.

Q. And Mr. Krakauer continued to handle those sleepers right up until the time you left, did he?

A. That's right.

Q. Never any interruption of his taking care of those sleepers?

A. That's right.

Q. Now, Mr. Hughes, there has been some reference as to this being two rooms there, a phone room and another room. Were there more than one room there?

A. Yes, sir.

Q. A front room and a back room?

(Testimony of Robert E. Hughes.)

A. That's right, sir. [278]

Q. The back room was an office?

A. It was, previous to that time, what we called a "Women's Room," and an arch was put in, a small arch was put in from the main, big room to the small room in back.

Q. There for awhile you operated a room for women bettors, did you? A. Yes, sir.

Q. That was exclusively for their use?

A. That's right, sir.

Q. Over what period of time did you have this lady's parlor or women's room, whatever you want to call it?

A. Oh, that was before, I would say, 1936, if I remember rightly, because that is when the, as we call it, "big heat" was on, and the Atherton investigation was started.

Q. And during the Atherton investigation I take it you closed up your lady's room?

A. Tight as a drum.

Q. And didn't reopen that part of the business?

A. Didn't open any part.

Q. Well, when you reopened after that you abandoned the women's room?

A. That's right.

Q. And when did you start to operate again after that?

A. I couldn't tell you, sir. I don't know any dates at all. I never kept any records. [279]

Q. How long were you closed up?

A. A year and a half.

(Testimony of Robert E. Hughes.)

Q. That was back about '36, '37?

A. The dates I couldn't tell you, sir.

Q. Well, that was, at any rate, during the Atherton investigation?      A. That's right.

Q. Is that right?      A. That's right, sir.

Q. Then you reopened after that?

A. Yes, sir.

Q. And you continuously operated, with small interruptions, I presume, right up until the time you left the employment?

A. That's right, sir.

Q. And it is a fact, is it not, that you closed for two months in 1941, as shown by these cards?

A. That I couldn't tell you, sir.

Q. And that may—

A. If that has been determined, why, it is the truth. But I did not keep any records of any time we were closed.

Q. Do you recall that you were having trouble with some sergeant in the precinct, and he wouldn't let you operate?

A. That I couldn't tell you, sir.

Q. All right. You do recall this: Occasionally you would be closed for a few days, is that right?

A. That's right, sir.

Q. And then you would reopen your business?

A. That's right, sir.

Q. And during all the years in question you operated in one location—1182 Market Street?

A. No, sir.

Q. You did not?      A. No, sir.



(Testimony of Robert E. Hughes.)

Q. Where did you operate?

A. Halfway down the block.

Q. In the same building?

A. No, sir; in another building.

Q. What other building did you operate in?

A. I don't know that.

Mr. Belli: Well, isn't this going into something else we are not concerned with in this case?

Mr. Campbell: Well, I am going into his familiarity with the business. He has exhibited great familiarity with Mr. Wild's affairs.

Mr. Belli: I will withdraw the objection if that is counsel's purpose.

The Witness: I don't know the name of the building, and I don't know the address. I can find out for you, but I don't know the name of it.

Mr. Campbell: Q. Now, Mr. Hughes, you have identified [281] and picked out for purposes of identification the first card in Government's Exhibit 7, the group of cards relative to 1941. Now, that is the one you were shown on direct examination and the one from which you have testified, wasn't it?

A. Yes, sir.

Q. And you stated, I believe, that on the reverse side of the card—whether you call it the front or the reverse—where the expenses are listed—do you have that in front of you? A. Yes, sir.

Q. That lettering, "EXT," and the "\$30.00," is your writing? A. That's right, sir.

Q. What does that "EXT" stand for?

A. "Extras."

(Testimony of Robert E. Hughes.)

Q. What extras? What does it refer to?

A. We were given a bonus that day.

Q. And that was a bonus that you and the employees received? A. That's right, sir.

Q. So it was entered on that day, is that right?

A. Yes, sir.

Q. Then you have "Rent, \$117.50," is that right? A. Yes, sir.

Q. The next item is "Nut, \$105.00." What is that, sir?

A. That is an item that, as long as I ever worked for Julius, that I never showed no interest, and showed no inclination to [282] find out what it was.

Q. Well, now, you wrote this word "Nut" down there? A. That's right.

Q. You paid that money out on that occasion?

A. No, sir.

Q. Where did you get the information to write "Nut, \$105.00"? A. From Mr. Wild.

Q. He told you to write "Nut" there?

A. That is what it was called, so that is what was put down.

Q. And he told you that?

A. After all, this is in 1941, and what he told me I could not tell you at this time, sir.

Q. Well, you remember other details of this business.

Mr. Belli: Just a moment.

That is argumentative, your Honor.

Mr. Campbell: All right.

(Testimony of Robert E. Hughes.)

Q. You recall details here of transactions had of which there are no records presently available.

A. That's right.

Mr. Belli: Just a moment.

We object to that. What transactions? Let's have it specifically, and we will lay the foundation whether he remembers that or not. That is an argumentative question.

The Court: It may be.

Do you wish to withdraw it? [283]

Mr. Campbell: I will reframe it.

Q. You remember details here concerning such matters as transactions with No. 1—Operator No. 1?

A. That's right.

Q. Now, you said that records as to that had disappeared. I am referring you now to a record which you state that you made, an existing record, and referring to the word "Nut"; I will ask you, as long as you made that entry, who authorized you to make it?

A. Mr. Wild authorized me to make that?

Q. What did he tell you when he told you to make it?

A. "Put down 'Nut, \$105.00'."

Q. Did he tell you on that occasion what it was for?

A. I never asked him. I never asked anything on any of the things that were supposed to be put down here. I was not the bookkeeper. All I did was take care of his business in the room itself, and helped him take care of his business in the back room.

(Testimony of Robert E. Hughes.)

Q. But this item you never asked about?

A. I never did.

Q. You had no curiosity as to what the word "Nut", which you were instructed to put down, meant?

Mr. Belli: I think that is argumentative, your Honor, as to whether it was curiosity, or the converse of that. I think it is of no moment here. [284]

The Court: Well, proceed, counsel.

Mr. Campbell: Q. Did you put down similar items, or—strike that.

There was a card, was there not, kept for each day? Is that right? Each day you would get a new card, wouldn't you? A. That's right, sir.

Q. And you would make entries for the day of the amounts that were bet there, is that right?

A. The total take, pay-out, and expenses, yes, sir.

Q. Yes. And they would be accumulated, would they not, on the following day's card?

A. That I don't know, sir. I never took care of that. And in fact, these cards, if you want to know, were against my policy.

Q. Well, I am not interested in your policy, Mr. Hughes.

A. And if I had had my say, these cards would not have been ever drawn up.

Q. I appreciate that, sir. Now, nevertheless, the cards are here. A. That's right.

Q. Yes, sir. And you made entries on the cards during the time you were there?

(Testimony of Robert E. Hughes.)

A. Because I was so ordered to do so.

Q. And you made entries daily while you were there of the [285] expenses?

A. That's right, sir.

Q. On how many occasions did you make entries similar to this "Nut, \$105.00"?

A. I don't know exactly what you mean.

Q. How many times? How often would you make an entry of "Nut, \$105.00," as part of your daily expense?

A. Whenever I was told to do it.

Q. How often were you told that?

A. That part was determined by Mr. Wild.  
Do you have any recollection as to how often you put it down?      A. No, sir.

Q. You were told from time to time to put down \$105.00?      A. That's right, sir.

Q. And it was always that sum, \$105.00?

A. That part you couldn't question me, because I never noticed whether it is that sum down there or not. If that sum is the sum that was to be put down there all the time, yes.

Q. Did you ever, in making entries on these

Q. Was it once a month?

A. If he told me to put it down once a month, yes.

Q. Well, what is your recollection now, sir?

A. If he told me to put it down once a month, I did so.

Q. Well, did you put it down once a month?

(Testimony of Robert E. Hughes.)

cards of the daily [286] expenses, use the symbol "X", or "XX"?

A. I would have to look at the cards to see what the figure is opposite, and then I could tell you.

Q. Pardon me. Let's turn to one of these cards in '41. You were working there full time in '41, as I understand it?

A. Up until December 7th.

Q. Until December 7th or December 8th?

A. Either that, or we were closed.

Q. I am going to refer you to Card No. 9, being for the period 3/1/41. I call your attention to the "X, \$105.00." Do you know what that is (indicating)?

A. Well, on that card, I wouldn't know, because it doesn't happen to be in my handwriting; it happens to be in Mr. Krakauer's handwriting.

Q. Anything that isn't here in your handwriting you know nothing about?

A. If it was put down there how would I know it was down there if it wasn't in my handwriting? I wouldn't be interested in it.

Q. Well, let me ask you this: Did you know anything about any of the entries made there, or in connection with that business, that were not in your handwriting?

A. No, sir, not all the time, no.

Q. You did not? A. No. [287]

Q. You didn't keep this little black book and make the entries in that, did you?



(Testimony of Robert E. Hughes.)

A. Not in completeness, no, sir. When I was told to put the entries in there, I put it in there.

Q. And did you have any information as to what those entries represented?

A. Yes, because I had helped Mr. Wild check on both against the book, against the room.

Q. You would ask about those entries?

A. When I helped him figure them out, yes.

Q. Do you recall ever having made entries on these cards of "X", or "XX"?

A. No, sir, I don't. I may have done it, but I couldn't tell you if I did or not, sir.

Q. You do recall making entries of "Nut", however?

A. Yes. Well, it is in my handwriting there, so I must have made it, sir. After all, that is seven, eight years ago, and I don't remember what was on those cards every month and every day that the entries were put in there.

Q. Now, you don't know what that was paid for?

A. I might hazard a guess, but I don't see why I have to.

Q. No. I am asking you if you know. I grant that you don't have to make a guess. Do you know?

Mr. Belli: Well, then, if counsel will be that charitable, your Honor, and say that he doesn't have to, I see [288] that there is a reluctance on the part of the witness to say what he thinks it is for.

Mr. Campbell: I am not entitled to know what he thinks. I didn't ask him what he thinks; I asked him what he knows.

(Testimony of Robert E. Hughes.)

Q. Do you know?

A. No. I think that if you will—

Mr. Belli: Just a moment, now. The more you say the more you are going to get asked.

The Witness: No. All I was going to mention, that he asked me that same question in that statement, and I told him at that time I don't know what it was. That was taken on March 26th.

Mr. Campbell: Q. Didn't you tell me, Mr. Hughes, that you would not state what it was for?

A. That's right; I said I didn't know.

Q. Well, didn't you say, "I will not tell anyone what it is for"?

A. I may have. That is still in 1946 when that was made.

Q. But isn't that what you told me, "I will not tell what that was for"?

A. Is that what it says in the book?

Mr. Belli: Just a moment.

Isn't the proper way to do this, as I understand it, if there were a former statement made by the witness, in all [289] fairness, shouldn't it be shown to him?

The Court: The witness claims complete familiarity with that statement, of recent date. He stated he had read it.

Mr. Belli: Yes, that he had read it, but—

The Court: And a copy was handed to him. He claimed full familiarity with it.

Mr. Belli: I have asked for it and have been unable to get it.



(Testimony of Robert E. Hughes.)

The Court: I am sure counsel will hand it to you.

Mr. Campbell: I have had it marked for identification.

Mr. Belli: It has been on your table.

Counsel wouldn't give it to me just a moment ago.

Mr. McMillan: Counsel, that isn't correct. I wanted to use it, and I said I would give it to you in a minute.

The Court: Now, counsel—counsel have been getting along very well on both sides.

Mr. Belli: May I have the copy now?

Mr. Campbell: Q. Mr. Hughes, do you have a copy of this statement? A. At home, yes, sir.

Q. It was furnished to you at the time you gave this statement?

A. Yes, sir — I don't remember when it was given to me, but it was given to me.

Mr. Campbell: The record will show this copy of the [290] statement was marked 14 for identification and will be left with the Clerk. I am using it at this time for the purpose of examination.

Mr. Belli: I still would like to see it, your Honor.

The Court: Q. Mr. Hughes, after you made the statement did you discuss the matter with Mr. Wild, or did you show him a copy of the statement you made?

A. No, sir; nobody has ever seen that. Not even Mr. Belli has ever seen that.

(Testimony of Robert E. Hughes.)

The Court: Well, for a 4:30 o'clock recess, we are reaching a point—

You may make a copy of it, or cause a copy to be made.

Mr. Campbell: I informed Mr. Belli that I would see if there was a copy available, and that I would furnish it to him. I don't know why we have this discussion at this time.

Mr. Belli: Well, if I get the copy that is all I want, as far as I am concerned.

The Court: All right, proceed.

Mr. Campbell: I thought your Honor said we would take a recess.

The Court: No; proceed. These interchanges take time. They serve no useful purpose.

Mr. Campbell: Q. Now, coming back to this black book— A. Yes, sir.

Q. (continuing) —where was that black book maintained in [291] the premises?

A. In Mr. Wild's desk in a drawer.

Q. That was a locked desk, was it?

A. No, sir.

Q. When did you last see it there?

A. I would say in the early part of 1941.

Q. That is the last time you ever saw it?

A. That's right, sir.

Q. When you say that it disappeared—

A. You said we wouldn't use that word.

The Court: No. "Mysteriously disappeared."

The Witness: Oh.

(Testimony of Robert E. Hughes.)

Mr. Campbell: You said "mysteriously disappeared."

The Witness: All right.

Mr. Campbell: That is entirely hearsay with you, is it not?

Q. You have no knowledge of what has happened to it, have you? A. No, sir.

Q. You don't know who has it today, do you?

A. No, sir.

Q. You don't know whether or not Mr. Wild has it? A. No, sir.

Q. Now, you say you made entries in that book?

A. Yes, sir.

Q. And you observed the book there in 1941?

A. Yes, sir.

Q. All right. When did you last see it in 1941?

A. I told you in the early part of 1941; just exactly when I couldn't tell you, sir.

Q. Would it be prior to the summer months?

A. It would be, just shortly prior to that, sir.

Q. And then in the spring of 1941?

A. Yes, sir.

Q. All right. And you have not seen it since then? A. No, sir.

Q. So that you have no knowledge of what entries, if any, were made in that book after the spring of 1941? A. That's right, sir.

Q. Now, at the time that you observed the book, what was the nature of the entries that you made in it? What did they relate to?

A. A figure was placed in there, one figure only, and it was underlined either in red or blue.

(Testimony of Robert E. Hughes.)

The figure amounted to the play, the gain, in the room, plus or minus, or vice versa, of the gain in the back room.

Q. In other words, according to your testimony, it was the sum of the gains from what you call the front room, together with the back room?

A. That's right, sir.

Q. And if one was a loss and the other a profit, one would [293] be divided from the other, is that correct?

A. Subtracted, yes.

Q. And over what period of time up until the spring of '41 that you last saw this book, what period did the book purport to cover?

A. It covered from the time I was there, in 1931, until that time. Mr. Wild always kept a book of that respect.

Q. All right. But after the spring of 1941 you no longer made any entries in it?

A. No, sir.

Q. And you never saw it after that?

A. No, sir.

Q. All right. Now, you say that back room business was done by runners?

A. That's right, sir.

Q. Your business, I take it, with the runners, also terminated in the spring of '41, is that right?

A. No, sir, they did not.

Q. Well, you still accepted the sheets they brought in? I am talking about you, personally, your personal transactions.

A. No, sir, unless Mr. Wild was not there, I did not handle any of their bets.

(Testimony of Robert E. Hughes.)

Q. You mean when he was there you did not handle it, is that right?

A. When he was or when he was not. I handled none of their [294] bets.

Q. In other words, you had nothing to do with the runner business?

A. Of accepting the bets. I put the bets down as Mr. Wild accepted them, and saw that they were taken care of, that they were followed through; that when the bets won, that the bets was marked in there, how much the man won, how much the man had coming.

Q. That was done right along with the regular business, wasn't it?

A. Of the back room business, yes, sir.

Q. Was that kept in a separate place from the front room business?

A. Oh, naturally. The front room business was all done on small cards the size of those (indicating). The back room business was done on large sheets of paper.

Q. Would you figure the pay-offs in the front room, then go to the back room and figure the pay-offs there?

A. That's right, sir.

Q. And between each race?

A. That's right, sir.

Q. And would you handle the cash to make the pay-outs?

A. No, sir.

Q. Who handled that?

A. A Mr. Collard did. [295]

(Testimony of Robert E. Hughes.)

Q. That was nothing whatsoever to do with the cashier's office, the cashier's cage in the front office?

A. Oh, wait now, pardon me. I misunderstood your question. I thought you were talking about the front room.

Q. I am talking about these runner's bets you were speaking of.

A. Mr. Wild paid them out of his own pocket.

Q. Now, who were these runners?

A. I told you, they came and they went. Sometimes they were different fellows.

Q. What were the names that you could give as of '41?

A. Well, it is going to sound funny, but the only two I could remember the names was one fellow named Yama, and another fellow was a fellow we called "Shufflin' Sam," because that is the way he walked.

Q. Yama—how do you spell that?

A. Y-a-m-a. I think you would find it in the newspapers. He was killed in a stabbing affray several years ago down on Ellis Street.

Q. And what happened to Shufflin' Sam?

A. He is still around.

Mr. Campbell: I see.

Mr. Belli: We have a subpoena out for him.

Mr. Campbell: Q. Do you know his true name?

A. No, sir, I don't. [296]

Q. How did these men who were coming in



(Testimony of Robert E. Hughes.)

there at the rate of eight or ten a day from certain bookmaking places, you can only remember two names?      A. That's right.

Q. And you only know the last name of one of the individuals?

A. That's right. You know, if you have ever been in a bookmaking establishment, any person that is here, they will quite reasonably understand—even being that you are so amused about it, about these runners—and you will see that these runners came in the room, and they had this money, and they laid it down there and bet. There was quite a few of them that, when they collected a bet, they just kept right on going, and the fellow that originally made the bet was out of his money. And it was awfully hard to get a very reliable runner. But that was one of the risks that they took.

Q. Let me ask you this: When you say “runners”, were they representatives of other bookmakers, or were they people accepting bets on the street?

A. No, sir; they were representatives of big bettors and commissions from the East.

Q. Well, now, let's see if we can check that out, Mr. Hughes.      A. Very easily.

Q. Who did these runners represent? What other bookmakers did they represent?

A. The Greenwald Club and the Kingston Club.

Q. Just the two?

A. In the Greenwald Club there may have been—I know of at least eight persons that operated in that.

(Testimony of Robert E. Hughes.)

Q. What is that, a kind of syndicate?

A. That's right.

Q. And that was one of the places that you were taking bets from, is that right?

A. That's right.

Q. And just those two that you have named?

A. Well, amongst them.

Q. I mean, those two places, those two clubs?

A. That was the two largest in San Francisco at the time, yes, sir.

Q. And among the two of them, they would hire as many as ten runners a day?

A. They would hire as many as 50 runners a day.

Q. As many as ten of those would come into your place?      A. That's right.

Q. And these were cash transactions?

A. Absolutely.

Q. And you were handling them?

A. Between myself and Mr. Wild we handled them, and when Mr. Wild was not there I did not handle any of the runners myself, runners' business.

Q. But you never saw a record that was maintained after the [298] spring of 1941 respecting that business?      A. No.

Q. So you don't know of your own knowledge whether or not that business was running at a loss or a profit, other than what you may have been told, isn't that right?

A. I would say, "Yes," but if you wanted to put me down to a specific figure of about how



(Testimony of Robert E. Hughes.)

much of the profit and loss, how much it might be, I would say "No."

Q. I see.

The Court: I think we have reached a convenient hour, although we ran half an hour late.

Mr. Campbell: Very well, your Honor.

The Court: Ladies and gentlemen of the jury, as I announced to you earlier in the afternoon, we will stand in recess and adjourn this case until tomorrow afternoon at two o'clock by reason of the fact, as I announced to you, of the services for the late Senior Circuit Judge Francis Garrecht, which will take place tomorrow morning. So we all understand it now, tomorrow afternoon at two o'clock. The jurors are to return to the court then.

However, the Court will take up the matter tomorrow morning at 11:30, of some criminal matters.

We will now stand in recess.

(Whereupon an adjournment was taken until Friday, August 13, 1948, at 2:00 o'clock p.m.) [299]

Afternoon Session, Friday, August 13, 1948, 2:00

The Clerk: United States of America v. Julius Wild, for further trial.

Mr. Campbell: Ready.

Mr. Belli: We are ready, your Honor. I think Mr. Hughes was on the stand. May I have him resume?

## ROBERT HUGHES,

was recalled to the stand; previously sworn.

Mr. Campbell: Shall I proceed, your Honor?

The Court: Yes.

## Cross Examination—(Resumed)

Mr. Campbell: Q. Mr. Hughes, coming back to the period of time during which you were employed by Mr. Wild, during 1941, '42 and '43, let us see if we can definitely establish the periods of time that you were working in the bookmaking establishment during that time. I believe you previously testified that your employment terminated approximately May 15, 1943. That is correct, is it not? A. That's correct.

Q. You stated you were full time up until Pearl Harbor, or December 7, 1941, is that correct?

A. That's correct.

Q. You were working six days a week there during that period of time, 1941? [300]

A. That's right.

Q. And approximately eight hours a day, I presume? A. That's right.

Q. After December 7, 1941, and up until the termination of your employment on May 15, 1943, what hours did you work, and what days?

A. On December 8 I was in the State Guard. I think I previously mentioned that, and I was called out on active duty for a period of about 15 to 30 days when I was on the Golden Gate Bridge all the time.

Q. That was 24 hours a day?

(Testimony of Robert E. Hughes.)

A. That's right, sir.

Q. Yes.

A. Then later on we were assigned to a period of approximately 12 hours a day from 12:00 noon until 12:00 midnight, and the detail was divided into several groups and I was able to arrange to work in the morning up until the time that I was called on guard duty.

Q. How long was that, your duty on the 12 hour shift on the bridge?      A. Four hours.

Q. I mean, how many days, weeks or months would that continue?

A. That continued until about March, or the beginning of April.

Q. 1942? [301]      A. That's right.

Q. During that period, then, for the first 15 to 30 days after Pearl Harbor you were not employed in "the room" at all?

A. I was not employed, but I was being paid.

Q. What I mean to say, you were not in "the room" at all during the day or had anything to do with the business?      A. No, sir.

Q. Then after that up until March or April of 1942 you were on guard duty from 12:00 noon until 12:00 midnight, but in the morning hours prior to 12:00 o'clock noon you would do some work at 1182 Market Street?      A. That's right.

Q. What hours did you report there on those days?

A. Where, at the book or at the guard duty?

(Testimony of Robert E. Hughes.)

Q. At the book.

A. 9:00 in the morning.

Q. When we use the term "book" we are referring to the establishment itself, are we not?

A. Yes.

Q. The establishment is known as the book?

A. That is right.

Q. You worked there from 9:00 until about when—11:30?

A. No, about 2:30 or 3:00 o'clock.

Q. I understood you to say you went on guard duty at 12:00 o'clock. [302]

A. I also stated I was able to arrange that I wouldn't have to be there until around 4:00 o'clock.

Q. And you would remain there from 4:00 o'clock in the afternoon until 12:00 midnight, is that right?

A. That's right.

Q. Then, after March or April, during the period you have described, what was your employment with Mr. Wild?

A. What periods? From there until about—the only way I can determine it is when my writing disappeared on those cards.

Q. May 15, 1943?

A. That's right, sir.

Q. What hours of the day did you work then during that period?

A. I went to work over at the United States Naval Air Base on October 2, 1942, if I remember rightly.

(Testimony of Robert E. Hughes.)

Q. Let us take the period from April 1942 up until the time you went to work at the Naval Air Base.

A. That's right.

Q. What was your employment then other than with Mr. Wild?

A. Nothing, only with Mr. Wild.

Q. You had no guard duties to perform during that period of time?

A. No, sir.

Q. You were at Mr. Wild's establishment every day, then, is that right?

A. Yes. [303]

Q. You were working on a full time basis?

A. Yes, sir.

Q. In October of 1942 you were employed at the Naval Air Base, is that right?

A. From 12:00 midnight until 8:00 o'clock in the morning.

Q. During that period of time and up until May 15 were you also working in Mr. Wild's place?

A. Yes, sir.

Q. What hours?

A. 9:00 o'clock in the morning until I just couldn't go any further, which would amount to, from anywhere from 11:00 o'clock to maybe 3:00 o'clock, and I would go home to sleep—9:00 o'clock in the morning until about 3:00 o'clock in the afternoon.

Q. And that continued up until May 15, 1943?

A. That's right.

Q. Or approximately then when you terminated your employment altogether with Mr. Wild?

A. That's right, sir.

(Testimony of Robert E. Hughes.)

Q. As I understand, during this period of time, and that is to say up until May 15 of 1943 and I am referring in my questions, unless otherwise indicated, to 1941, 1942 and up until you left in 1943, you stated you were in charge of the room play, is that correct? A. That's right, sir.

Q. You also stated that you assisted Mr. Wild in the play which you have described as the back room play from runners, is that right?

A. That's right, sir.

Q. But that when Mr. Wild was absent none of that runner play was accepted, is that right?

A. No, sir.

Q. What's that? A. That's right, sir.

Q. So that any time this play that you have described, the bets brought in by these runners, the so-called smart money, that you have referred to, Mr. Wild was always present when they were accepted? A. That's right.

Q. You never accepted those when he was absent? A. No, sir.

Q. And it is a fact, is it not, that Mr. Wild was present daily at that business establishment?

A. I would say almost daily, sir.

Q. And he ran that part of the business?

A. Yes, sir.

Q. You say that some record of that was kept, to your knowledge, up until the spring of 1941, is that right, the little black book you referred to?

A. I would say it was kept up until the spring of 1943. [305]



(Testimony of Robert E. Hughes.)

Q. Now, you stated yesterday that you had not seen this black book after the spring of 1941. Was some other book kept then?

A. Not that I know of.

Q. Well, you never saw the black book record after the spring of 1941? A. No, sir.

Q. So, of your knowledge, I asked you, or let me put it this way: Did you ever see any record kept, any written record, kept of that business you have described as the runner business or back room business after the spring of 1941?

A. Only what was put down on the daily run-down tape and was put into his pocket.

Q. And you don't know what happened to those? A. No, sir.

Q. You don't know whether that was transferred to any book or whether the tape was kept?

A. No.

Q. I also understood your testimony that on several occasions in 1941 you went with the defendant Wild to Caliente or Tijuana, is that correct? A. Yes, sir.

Q. Did the occasions you went there with him all fall in the year 1941?

A. That I could not be sure of.

Q. Did you go with him on any occasions in 1942? [306] A. No.

Q. Did you go on any occasions in 1943?

A. No.

Q. You did, however, go on certain occasions in 1941? A. Yes, sir.

(Testimony of Robert E. Hughes.)

Q. And possibly in prior years, I take it?

A. Yes, sir.

Q. In 1941 on how many occasions did you go there with him?

A. I don't know; I never kept track of them.

Q. Your best estimate, sir.

A. That could not be estimated, sir, as far as I am concerned. I didn't keep all those things.

Mr. Belli: Speak a little louder, please.

The Witness: Yes.

Mr. Campbell: Q. Can you state definitely that in 1941 you went to Tijuana or Agua Caliente on more than two occasions with him?

A. I could not, sir.

Q. Could you state whether you went on one occasion definitely in that year?

A. I could not, sir.

Q. All right. Now, you referred in your testimony yesterday to the laying off of bets which were accepted at the rooms and you referred particularly to this, what you called the smart money or runner money, and you referred to layoff places at [307] Bay Meadows and Tanforan. Was Tanforan running in 1941, do you know? Did they have a meeting there?

A. That I couldn't be positive of.

Q. Did they have a meeting, do you know, in 1942?

A. No, I don't think they did. I think that the war took it over then.

Q. And they did not run in '43 either, did they?



(Testimony of Robert E. Hughes.)

A. No, sir.

Q. Was there a meeting at Bay Meadows in 1941?      A. I would say yes.

Q. There was in 1942 as well?

A. I don't remember, sir.

Q. You don't recall whether there was or was not?      A. Whether there was or not.

Q. And was there a meeting there in 1943, sir?

A. I don't remember, sir.

Q. You don't recall that?      A. No, sir.

Q. But you have a recollection that there was a meeting at Bay Meadows at least in 1941?

A. Yes, sir.

Q. Now, you refer to the fact that there were layoff rooms at Bay Meadows where these bets were handled. Will you explain what a layoff room is or where the layoff room is at Bay Meadows?

A. The layoff bet at Bay Meadows was usually run by a man who had a—I never was in the room, but it was explained to me and I have called him up several times, and he had phones in this room across the highway, across the 101 Highway at some spot down there, and any bets that wanted to be telegraphed down or sent in to him were sent down and he would in turn take the money and go over and bet it in the mutuel machines.

Q. Let's get this straight. Who was this individual?      A. Jack Kyne.

Q. Jack Kyne?      A. Yes.

Q. And he was the person that was used by your book for that purpose?

(Testimony of Robert E. Hughes.)

A. That's right, sir.

Q. When would you phone down to him with reference to a particular race?

A. You had to phone to him—

Q. Say, a race with a post time of 2:10, what time would you have to phone down to him?

A. You would have to phone down at least a half hour ahead of time.

Q. And what would you do with the layoff bets that you received less than a half hour before post time?

A. We would not take them if we could help it.

Q. You wouldn't take any bets in any time less than a half hour [309] before post time?

A. Not big bets—small bets in the room we took up until exactly post time.

Q. But this so-called smart money or big bets you would not take after you had an opportunity to lay it off?      A. That's right.

Q. Did you have any arrangement which guaranteed that your money would be laid off down there with this Jack Kyne you have referred to? In other words, what guarantee did you have that he would get up to any mutuel window in time to place your bets?

A. No guarantee. The man was a bookmaker and when you made a bet with a bookmaker it was the same as in the room. There was no guarantee you would get paid off in the room, but you made

(Testimony of Robert E. Hughes.)

a bet and expected to be paid off by the man, and if he didn't pay off he would not be in business.

Q. I take it when you referred in your testimony yesterday to the layoff place at Bay Meadows you were not referring to any enclosure within the track itself? A. That's right, sir.

Q. Now, you were shown yesterday these cards with reference to 1941 and 1942, and drawing your attention up until May 15 of 1943, which were the last ones on which your handwriting appears, do I understand you that you have no knowledge of what was contained in the figures on the bottom of these cards in [310] ink, showing you Government Exhibit 7, and I call your attention to the face of these cards, the figures that appear in ink that you testified, I believe, were made by Mr. Krakauer? A. That's right, sir.

Q. You have no knowledge of these figures?

A. I never saw these figures until the first time I was asked about it in the Bureau of Internal Revenue.

Q. Did you have any knowledge of your own, then, of what is set forth in these figures or contained in the figures or the totals which are set forth there?

A. Only to the extent that I was asked what they were supposed to be and I tried to make a guess for you folks; in fact, when I was asked about it—

Q. I am asking you now if you, of your own

(Testimony of Robert E. Hughes.)

knowledge, know what is represented in these figures at the bottom of these cards?

A. No, I am not a bookkeeper. I don't know how he carried those cards.

Q. And do you know what figures went into the totals of these cards? A. Pardon me?

Q. Do you know what figures went in these cards to make up the totals? Take this one, for example, of \$11,926. A. No, sir.

Q. So you do not know of your own knowledge whether or not the [311] telephone bets were recorded on the bottom part of these cards, do you?

A. No, sir.

Q. And you don't know whether or not the runner bets were recorded on these cards, do you?

A. No, sir.

Q. I believe you stated yesterday with reference to this first card that the word "Ext." represented the bonus which was paid to the employees on that day, and that is the first week of January 1941? A. Yes, sir.

Q. How much was paid to each employee?

A. I don't know, sir.

Q. How much did you receive, sir?

A. I don't know.

Q. It was an entry which you made, however?

A. Yes, sir.

Q. Isn't it a fact that, or is it a fact, that you only received a bonus when the profit ran over \$100 a day? A. Ordinarily, yes.

Q. I call your attention to the fact on this card that the profit shown is that of \$43 and I ask you

(Testimony of Robert E. Hughes.)

if it is not a fact that "Ext." stands for something other than bonus paid to employees?

A. No, it doesn't. [312]

Q. You are very positive that it refers to a bonus paid you employees and on that day?

A. Yes, sir.

Q. I call your attention to the second card of this group and to the figures appearing on the back under the "Expenses"—"XX—\$50"—do you know what that is?

A. That probably would be a bonus, sir.

Q. Is that your handwriting? A. Yes.

Q. You used "XX"—two cross marks on this?

A. That's right, sir.

Q. Did you on some occasion use "Ext." as a code for bonus? A. Yes, sir.

Q. And on some occasions you would use the double cross? A. That's right.

Q. Is your answer the same as to this sixth card with two X's and \$85?

A. I would say yes.

Q. That is your entry on there, isn't it?

A. Yes, sir.

Q. And your statement now is that XX means a bonus of \$85 that was paid to employees on that day?

A. I don't say it is absolutely, sir, but I say it is very probable that is the truth.

Q. I am asking for what is the truth; that is your best [313] recollection at this time?

A. That is my best recollection.



(Testimony of Robert E. Hughes.)

Q. How much did you receive on that occasion?

A. With that amount I would say double salary.

Q. Did you on occasion receive double salary?

A. Yes, sir.

Q. Let us take the eighth card on the list, the double X, and there is \$1. Is that a bonus paid to employees, a dollar split up among them? That is your writing, isn't it?      A. Yes, sir.

Q. Do you wish to change your testimony as to the meaning of that double X?

A. No, I don't.

Q. That is a bonus?      A. No, sir.

Q. What is that double X?

A. I do not know, sir.

Q. I call your attention to the word "nut"— "\$45." Is that your writing, sir?

A. Yes, sir.

Q. What is that?      A. I don't know, sir.

Mr. Belli: That was gone into the other day, your Honor, was it not? I object to this as having been asked and answered and reasked and reanswered. [314]

The Court: Objection overruled.

Mr. Campbell: This is a different card.

Mr. Belli: But it is the same question as to the problem of pay-off which I understood we were not trying in this case.

The Court: Objection overruled.

Mr. Campbell: Q. I call your attention to the ninth card with a single cross and \$105. Is that your writing?      A. No, sir.



(Testimony of Robert E. Hughes.)

Q. Do you know what that entry is?

A. No, sir.

Q. I call your attention to the 27th card of this group, all being from Government Exhibit 7, the card relative to 1941, the item of single X—\$20. Is that your writing? A. No, sir.

Q. Do you know what that single X, \$20 represents? A. No, sir.

Q. I call your attention to the 28th card, a single X—\$10. Is that your writing, sir?

A. No, sir.

Q. Do you know what that represents?

A. No, sir.

Q. I call your attention to the 29th card, again a double X—\$20. Is that your handwriting?

A. Yes.

Q. Do you know what that represents? [315]

A. No, sir, after all, my dear sir, how would I know after this little time just exactly what those figures would be?

Q. Well, you previously stated, Mr. Hughes, that the double X represented a bonus that was paid.

A. That's right, but the only way I could determine that, if they were bonuses or not, is whether the profit was over \$100 usually we would get a bonus. You are just showing me that one item and then taking it away. If you let me look on the back of the card and let me see if the profit is exceeding \$100 I can say, not definitely, but would say in all probability that is a bonus.

(Testimony of Robert E. Hughes.)

Q. All right. Let us take this next card, No. 32: I call your attention to the fact that there is a triple X item of \$85 and double X item of \$20, and I ask you as to those to state if they are in your writing and what they represent.

A. In this case there is a profit of \$158 on the day, but I would say that one of those items would definitely state that we got a bonus on that day. What the bonus was I couldn't tell you, sir, or the amount.

Q. Well, which is the bonus?

A. I don't know, sir.

Q. Do you recognize one of those symbols as representing a bonus?

A. No, sir, they are both marked with a cross, so it is all the same. [316]

Q. One is for \$85 and the other is for \$20, and the day's profit was \$158, is that right?

A. Yes.

Q. But you say one of those was bonus?

A. Yes.

Q. Let us take card No. 38: There is \$105 gain for the day, but the double X is for \$7. Will you explain that?

A. Right above it, not in my writing, it says, "X salary — \$48," so that would mean we got double salary that day.

Q. But there is a double X of \$7—what would that be? A. I don't now what that would be.

Q. You have examined these cards, haven't you?

A. Just as far as the handwriting of mine that

(Testimony of Robert E. Hughes.)

is on the back of the card and on the front of the card and that it was mine.

Q. Well, you have observed that there are various X's, a single X, a double X and triple X items on these cards under the "Expense" items.

A. Yes, sir, just from what you have showed me.

Q. Would your answer be the same as to all of those that you do not know what they represent unless they represent bonus?

A. That's right, sir.

Q. And where more than one of such items appears you do not know whether or not they represent profit or loss from this so-called phone business you have referred to, do you?

A. No, I don't. Well, that would not be up there, regardless [317] of where it is because that is the actual—as far as what was put on there, it shows the actual book expense, the outside room expense.

Q. That is an expense item of some kind, then; you do know that?

A. It was paid out from the book.

Q. I am trying to find out who it was paid to and for what purpose, Mr. Callahan.

A. My name is Hughes.

Q. I mean, Mr. Hughes. Pardon me, sir. I want to call your attention to just a few more of these cards and then I will leave the matter. I call your attention to card No. 38 for September 19, 1942, and double X and \$125. Is that your writing?

(Testimony of Robert E. Hughes.)

A. No, sir.

Q. Do you know what that is?

A. No, sir.

Q. And the card immediately preceding that, card No. 37 for the period ending September 12, 1942, "X Salary \$30"—that is a bonus item, is it not?

A. I would say so. It is not in my handwriting, but I would say that is what it was.

Q. And isn't it a fact when the bonuses were recorded on these the word "Salary" is used?

A. When Mr. Krakauer it seems to be, but when I wrote it, it did not. [318]

Q. And you say some of these X's and double X's were not written by you but were written by him, is that right? A. That's right, sir.

Q. Showing you this one of August 1, 1942, is that your "X" and the \$105?

A. That's right, sir.

Q. What was that, sir—that \$105?

A. I don't know, sir.

Q. You have no idea of what that item was?

A. No, sir.

Q. Was that an item you wrote at the direction of Mr. Wild?

A. I wouldn't know, sir. When I was told to put down there something, I did, but where the money went to or who got it I couldn't tell you from this date.

Q. Did you take instructions from anyone other

(Testimony of Robert E. Hughes.)

than Mr. Wild as to what to put down on these cards?

A. I put it down at my discretion, sir; if the money was to be paid out to newspapers or racing forms, or anything else, I did not have to ask Mr. Wild's permission on that account.

Q. You saw, of course, that the money was paid out?

A. I saw that the money was handed to the proper person to whom the money was to be delivered to.

Q. Who had you handed the \$105 to?

A. I couldn't tell you.

Q. Let us take this one of April 4, 1942, card No. 14 with [319] "X \$105". Are those your figures?

A. No, sir.

Q. Do you know what that "X" means?

A. No, sir.

Q. That was money that to your knowledge was taken out of the business?

A. Yes.

Q. Each of these items on the expense side was money taken out of the business, to your knowledge, is that right?

A. Yes, I would say that.

Q. But you would balance up the cash on the front side of this, would you not?

A. Yes, sir, with Mr. Krakauer.

Q. So that each time that these double X's or triple X's or single X appears as an expense item, to your knowledge that money was actually taken out of the drawer or till and used for some purpose?

A. That's right.



(Testimony of Robert E. Hughes.)

Q. And that, with your knowledge, was taken out of the room?

A. Yes, but if it was taken out of the room, naturally being responsible for the money, I wanted to know that it was written down on the card and that was the only reason.

Q. And being responsible for the money you made sure it went to Mr. Wild or to someone at his request, is that right?      A. That's right.

Q. Now, you were asked yesterday about bank account. What bank accounts did he have in 1941?

A. The only two that I absolutely knew about was one at the Day and Night Branch, and I am not sure whether that was in 1941; but the other one was up at the American Trust at the Civic Center and it was kept there for one purpose only and that was so that we could get change.

Q. Was that Civic Center account opened during 1941?      A. I don't know, sir.

Q. Didn't you say yesterday that you first learned of that account in 1942?

A. That I don't know, sir; I couldn't tell you the exact dates.

Q. You don't know now whether that was open in 1941 or not.

A. No, I am not absolutely positive.

Q. You had also a safety deposit box in connection with the business?

A. I never saw the safety deposit box.

Q. But you knew there was a safety deposit box in connection with the business?



(Testimony of Robert E. Hughes.)

A. I have heard there was such a thing, yes, sir.

Q. Where was that maintained?

A. At the Day and Night Branch of the Bank of America on Market Street.

Q. Did you have access to that safe deposit box? [321]

A. I never saw the box, or was never there.

Q. You were not authorized to go into that box? A. No, sir.

Q. And by authorization I mean authorized at the bank as one who could sign and enter.

A. Not so far as I know, sir. [321-A]

Mr. Campbell: Pardon me a moment. That is all.

#### Redirect Examination

Mr. Belli: Q. Do you know of your own knowledge whether Mr. Krakauer knew of the black book, or not?

Mr. Campbell: Objected to — Pardon me, I thought you were finished.

Mr. Belli: Yes, I did finish.

Mr. Campbell: I am going to object to that as his conclusion, as to Mr. Krakauer's knowledge.

The Court: Sustained.

Mr. Belli: Did your Honor rule?

The Court: I sustained the objection.

Mr. Belli: I believe I appended the question with the statement of his own knowledge, if he knew.

(Testimony of Robert E. Hughes.)

Mr. Campbell: I submit he wouldn't know what Mr. Krakauer knew.

Mr. Belli: Q. Did you ever see Mr. Krakauer around with a black book? A. No, sir.

Q. Did you ever discuss the black book with Mr. Krakauer?

Mr. Campbell: Well, now—

A. I do not think so, sir.

Mr. Belli: Q. Was the black book discussed with Mr. Wild and you or anyone in the presence of Mr. Krakauer??

A. No, sir, I do not think so.

Q. When you were called—withdraw that. Were you not [322] called by the Internal Revenue, by Mr. Burkett, after you gave one or two of these statements? A. Yes, sir.

Q. And were you then asked about the black book?

Mr. Campbell: Objected to—

A. Yes—

Mr. Campbell: Just a moment. That is objected to as immaterial. I think any discussion—I don't know what this would lead it, but any discussion he may have had with a revenue agent on these matters, we are going into very collateral matters. I have no objection to this particular question, but I think this type of testimony or this type of question can lead us far astray from the inquiry here.

Mr. Belli: I recall yesterday, your Honor, that the proffer of proof that was taken—

(Testimony of Robert E. Hughes.)

Mr. Campbell: I will withdraw my objection. I will withdraw my objection to this particular question.

Mr. Belli: Read the question, please.

The Court: You had a discussion with Mr. Burkett about a black book?

The Witness: Yes, he did ask me if I had ever seen the book, or knew of its whereabouts. I answered that I did. I not only seen the book, but had entered figures into the book and entered figures ever since I began to work for Mr. Wild, but where the book was, why, I did not know. [323]

Q. You have seen the black book, you said?

A. Yes, sir.

Q. Did you do some work in it, yourself?

A. My figures are in that, just like they are on the cards, sir.

Q. With reference to Julius' expenses there at the book, that are not in the card, here, did Julius have a free lunch or entertainment there?

A. Well, he always bought lunch for most of his employees. We were never allowed a lunch period, with only a few exceptions, and he always brought down Roquefort cheese and crackers and salads and coffee and everything else that the help wanted. Our work was continuous. I mean, from the time the races started until we were finished.

Q. Where was that paid from?

A. Usually from Julius' pocket.

Q. Did Julius have a jockey that he was keeping there at the book?

A. Yes, sir.

(Testimony of Robert E. Hughes.)

Q. Can you tell us about that, who paid the expense for him?      A. Well, Julius did.

Q. Who was the jockey?

A. Well, Armando Fermin, the boy that rode most of his horses most of the time.

Q. Well, can you tell us why or how he kept him there at [324] the book?

A. Well, the boy did not get many mounts, but he rode for Julius, and naturally his fee from Julius and his horses wasn't enough to keep him going and it was only natural; later on when he got enough mounts to get by on, he finally left there.

Q. With reference to the business of these runners, now you have given us some indication of the business that was transacted by them and some concept of the size of it. In other words, for us to subpoena those runners, will you state for the record now, so that we will have it over the week end, just give the names; you can give us the last names, or if not, give us the first name or the nicknames of some of these runners that you knew.

A. Well, there was Shufflin' Sam.

Q. We had his the other day.

A. There was Yama.

Q. And we had his name the other day.

A. Rosie; that is the only name I ever knew him by. And the dishwasher used to come in there and bet.

Q. Who?      A. The dishwasher.

Q. Is that the name he was known by?

(Testimony of Robert E. Hughes.)

A. That is all. He used to wash dishes when he went broke. He would wash dishes for a little while to get started again.

Q. All right, who else? [325]

A. Well—(hesitating)

Q. Was there someone called “Sacramento Butch” that came in there?

A. Sacramento Butch was a bookmaker that accepted Julius’ lay-offs. Another one was “Artichoke Joe.”

Q. Where did Artichoke Joe come from?

A. He originally came from San Bruno, and he eventually wound up down on Sixth Street.

Q. How about “Ten Grand Paddy”?

A. He was a big bettor that used to come in there and bet.

Q. How about Mr. “Q”?

Mr. Campbell: I am going to object that this is all leading and suggestive, if the Court please.

The Court: Well, it may be.

Mr. Campbell: We may be saving time, however, so—

Mr. Belli: That is the purpose of it.

Mr. Campbell: All right, go ahead.

Mr. Belli: I mean, I have been given a list of these rather romantic appellations and I thought it would be fastest to do it this way.

A. (Continuing): Mr. Q is also another bettor who flitted in and out.

Q. And that is the letter “Q”?

A. That’s right.



(Testimony of Robert E. Hughes.)

Q. And Willie Watso? [326]

A. Yes, he also bet.

Q. Now, are these characters, or these people, men who habituated the booking row of the street about at that time, and were well known in the community?      A. That's right.

Q. Did they carry transactions by means of cashier's check, or personal check, or a money order, or cash?

A. Cash was always advisable in a bookmaker establishment or in a bookmaking game, just like down at a racetrack—you bet cash, not checks.

Q. The other day you remarked about these cards. I think that your expression was that you wished or suggested that he not keep—Julius not keep—these cards, and by “these cards” I refer to 9, 7, and 8, Government's Exhibits. Will you explain your answer, please?

A. Well, naturally, they don't reflect the true business that Julius handled down there.

Mr. Campbell: I ask that the answer be stricken. The witness had heretofore stated that he didn't know what was on those cards, if the Court please.

The Witness: Well, since I have looked at them—

Mr. Campbell: Just a moment, Mr. Hughes.

The Court: The answer may be stricken in its form, but the witness will be allowed to explain just what he has in mind, precisely, in the light of his former answer to Mr. [327] Campbell yesterday. You might address the question to him, an explanation of what he had in mind.



(Testimony of Robert E. Hughes.)

Mr. Belli: Yes.

Q. You say you made the statement the other day that you didn't want him to wished that he didn't, or something like that, about keeping these cards here. Now, you just gave us that flat statement that more or less is a conclusion. Will you explain your reason for that answer in detail?

A. Well, when you take on a daily card there of the amount that was put down there and was left on the top of the card where you subtracted your pay and your take, if the pad has a bad day, which it frequently did, why, that wouldn't be the true value, and if the figure is supposed to have been transferred down there and there is only marked in as far as the room play—as Mr. Krakauer has explain, himself—that this is only a room play business—

Mr. Campbell: Now, just a moment, I ask that that characterization, that Mr. Krakauer explained himself, be stricken.

The Court: All right.

A. (Continuing): So I am just saying that that is not a true value of the real play that was in the book.

Mr. Belli: Q. As far as Julius, himself, was concerned, in the running of the business, did you ever at any time see Julius do a dishonest thing in the booking business?

Mr. Campbell: Now, that is objected to, if the Court [328] please.

The Court: Sustained.

(Testimony of Robert E. Hughes.)

Mr. Belli: Q. Was there anything dishonest with reference to these sleepers?

Mr. Campbell: That is also objected to.

Mr. Belli: Q. By Julius—

Mr. Campbell: That is also objected to, your Honor.

The Court: Sustained. I think the subject-matter has been gone into very thoroughly.

Mr. Belli: All right. That is all, sir. Thank you.

Mr. Campbell: Just one or two questions.

#### Recross Examination

Mr. Campbell: Q. You stated, I believe, that there was a hocket expense in connection with Mr. Wild's stable.

A. Yes, sir.

Q. Fermin?

A. Yes, sir.

Q. Now, as a matter of fact, didn't Julius, after 1940, and sometime around or about July of 1940, dispose of any interest he had in horses and get out of racing?

A. No, sir.

Q. I am going to show you a document—

Mr. Belli: May I see it first, Counsel?

Mr. Campbell: Yes, I am going to identify it for the record. I ask that this be marked for identification. It is a [329] carbon copy of a letter on the stationery of the Hotel Whitcomb, San Francisco, dated and bearing the typewritten address, 1182 Market Street—July 1, 1941, and addressed to the Treasury Department, and bearing the typewritten signature “J. Wild, By——,” and with

(Testimony of Robert E. Hughes.)

the initials "RFC/C," to which is attached what purports to be an original letter from Mat Rogan, Collector, by W. R. Pearson, Cashier, on the letter-head of the Treasury Department, addressed to Mr. J. Wild, care of Hollywood Turf Club, and to which are attached copies of what purport to be employer's report of taxable wages paid to employees, dated 6/20/40, and ask that they be marked for identification.

The Clerk: Government's Exhibit 15 For Identification.

(Letters referred to were marked U. S. Exhibit 15 for Identification.)

(Exhibit 15 for Identification was then handed to Mr. Belli by Mr. Campbell.)

Mr. Belli: They are all as one exhibit?

Mr. Campbell: Yes, for Identification purposes.

Mr. Belli: We will stipulate they may go in.

Mr. Campbell: May go in evidence?

Mr. Belli: Yes.

Mr. Campbell: I will offer it in evidence then, if the Court please.

The Court: It may be marked Government's Exhibit next [330] in order.

The Clerk: Government's Exhibit 15 in evidence.

(Testimony of Robert E. Hughes.)

(U. S. Exhibit 15 for Identification was thereupon received in evidence.)

Mr. Campbell: Q. I am going to read you this letter, and ask you if this refreshes your recollection: (reading)

Hotel Whitcomb,  
San Francisco,  
At the Civic Center

1182 Market Street

July 1, 1941

Treasury Department,  
Internal Revenue Service,  
Los Angeles, California

Attn. W. R. Pearson, Cashier.

Sir:

Replying to your letter of June 25th, in regard to the payment of \$2 made in August, 1940, copy of which is returned herewith, together with forms SS-la as requested.

Please be advised that I paid Jockey A. Fermin the sum of \$50 in June and \$50 in July of 1940—since that time I have disposed of my interest in horses and am no longer connected with racing.

For your information I wish to advise that this is the first letter to reach me in regard to this matter, and trust that the enclosed form will enable you to close your file on the matter. [331]

“Sincerely,

J. WILD,

By .....

HFC:C”

(Testimony of Robert E. Hughes.)

Does that refresh your recollection?

The Court: What is the date, July '40?

Mr. Campbell: July 1, 1941.

Q. Does that refresh your recollection?

A. No, it does not; as far as I am concerned, even in 1943 and '44 when Julius' horses ran, they were still entered under the name of Wild in the paper and in the Racing Form, and that is as far as I would know of it.

Q. So far as you know, he still had horses in July of 1941?

A. As far as the paper would state, and that is as far as I know.

Q. Well, then, let's get this straight. You know that he actually had a racing stable, that he had ownership in it other than that you saw in the paper his name? A. When?

Q. In 1941, '42, and '43.

A. Not if he says there he doesn't—why, he doesn't, I guess. But he didn't tell me about it.

Q. So when you stated he did have a stable, you were stating what you had heard, did you not?

A. That's right, sir.

Q. That's right.

Q. Now, you made some explanation of the statement you made [332] previously on cross examination, that as far as you were concerned, you were against keeping cards?

A. That's right, sir.

Q. Now, isn't it a fact that the reason you didn't want to keep the cards was the fact that

(Testimony of Robert E. Hughes.)

they might be evidence in case of a raid regarding the making of book in that establishment?

A. That is part of the reason, yes, sir.

Q. That is part of it?           A. Yes, sir.

Q. Yes. It is not customary to keep records in that type of business?

A. Not in your business establishment, no.

Q. And usually the records of most of these businesses are destroyed every day?

A. Either that or kept at home where they are—

Q. Somewhere out of reach?

A. That's right, sir.

Mr. Campbell: That is all.

#### Further Redirect Examination

Mr. Belli: Q. It would be an easy thing to determine whether Julius had horses after '41 by the names of the horses in the Facing Forms, wouldn't it?

Mr. Campbell: Just a moment, that is calling for the witness' conclusion.

Mr. Belli: Q. Your expert opinion— [333]

The Court: Sustained.

Mr. Belli: Q. What were the names of Julius' horses?

Mr. Campbell: That is also calling for his conclusion, in view of his statement that he didn't own horses.

The Court: Not necessarily. Reference was made to two horses yesterday. You made reference to two horses?



(Testimony of Robert E. Hughes.)

The Witness: Yes, Deer Fly and Silent Julie—

The Court: Were there any others?

The Witness: He had Biloxi Bay.

Q. Wait a moment, let's have those easy. Biloxi Bill?      A. Biloxi Bay.

Q. B-i-l-o-x-i?      A. Yes—Bay, B-a-y.

Q. Yes?

A. Silent Julie, J-u-l-i-e, Deer D-e-e-r Fly F'l-y, Skookum Chuck.

Q. What?      A. Skookum Chuck.

Q. Yes, what else?

A. Well, he had several others, the names right now have escaped me. I don't know what, just exactly what their names were. It has been so long ago, I can't remember, and I was never a sticker for that sort of stuff.

Mr. Belli: That is all.

Mr. Campbell: Just one question. Are you through, Mr. [334] Belli?

Mr. Belli: Yes, thank you.

Mr. Campbell: Just one question or two.

Further Recross Examination

Mr. Campbell: Q. Did he have these horses you just described on July 1, 1941?

A. To my knowledge he did, sir, but whether with that letter that is shown me, why, I am in doubt, myself, now. After all, he wrote it down in a letter; he must have got rid of them without my knowledge, of knowing it.

Q. Well, I take it—you have just testified that

(Testimony of Robert E. Hughes.)

he had those horses; if he had horses, that letter does not state the fact, does it?

Mr. Belli: Well, let him—

Mr. Campbell: All right, I won't bother.

Mr. Belli: He shouldn't make comments on someone else's letter.

Mr. Campbell: Very well.

Mr. Belli: I didn't object to the letter going in, because I am not objecting to anything. But I do, if he is asked to pass upon that.

The Court: Have you finished with the witness?

Mr. Belli: Yes, I have.

The Court: Step down. [335]

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The Court: Is this witness excused now? Is he required for any further examination?

Mr. Belli: Well, I just talked with him, your Honor, and he asked me that, and I asked him if he would stand by. There may be something else about which we would want to call him.

Now, I understand Mr. Callahan has been subpoenaed by the Government, but that he is not going to be called by the Government, and he wants to go to Portland, so I think—he spoke to your Honor about that, I believe?

The Court: No.

Mr. Belli: Well, at any event, I know he wants to go, so I will call him myself.

Mr. Campbell: Well, the statement that he is not going to be called by the Government may not

be accurate. He has not been to this point called by the Government.

The Court: That is a correct statement of fact.

Mr. Belli: Well, we will defer to you. Do you want to call him now?

Mr. Campbell: Let's put on our case in order.

Mr. Belli: All right, Mr. Callahan come on. We will call him. We will make him our witness.

**ROBERT F. CALLAHAN,**

called as a witness on behalf of the defendant;  
sworn. [336]

The Clerk: Q. Will you state your full name, please?      A. Robert F. Callahan.

**Direct Examination**

Mr. Belli: Q. Now, you were subpoenaed by the Government here the other day, weren't you, Mr. Callahan?      A. Yes, I was.

Q. And, first, so that the jury will know a little bit about you, you are a member and have been a member of the San Francisco Fire Department, is that right?      A. That's right.

Q. And you have had some experience with the keeping of books and figures and so forth, haven't you?      A. I have.

Q. You are not an accountant or bookkeeper by trade?      A. No.

Q. However, you did take on some part-time job or spare time job, some bookkeeping of Julius' back in '41, '42, and '43, is that right?

A. Not bookkeeping, no.

Q. Well, what did you do?

(Testimony of Robert F. Callahan.)

A. I prepared his income tax return.

Q. And that was for the years 1941, '42 and '43, is that right?      A. That's right.

Q. All right. You had known Julius before that, before then, in, shall we say, a social way?

A. Business way. [337]

Q. Business way. All right. And you were referred to him or he to you, as someone who would keep his income tax return, or do his returns?

A. That's right.

Q. Now, let's come to some point of entry here and begin with the duties that you were given there. The returns that are here that are presently under scrutiny by the Government are the returns, of course, encompassed within the indictment for 1941, '42 and '43. Now, where did you get the figures to make up those returns?

A. From Julius Wild.

Q. And did you ever see these cards here, 7, 8 and 9 of the Government? (Displaying to witness.)

A. Yes, I saw them when I was called to the Government office.

Q. Did you see them before then?

A. I did not, those particular cards, no.

Q. By the way, were you here when Mr. Krakauer testified the other day?      A. I was.

Q. I ask you if you gave Mr. Krakauer at any period of time any figures or told him to make up the 12 cards to take up to Uncle Sam or take up to the Government?      A. I did not.

Q. Do you recall the conversation at that time

(Testimony of Robert F. Callahan.)

with reference [338] to any 12 cards that were taken to the Government?      A. Yes, I do.

Q. All right, will you tell the ladies and gentlemen of the jury just exactly what Mr. Krakauer did say and what was done at the time that these twelve cards were prepared?

A. Well, I don't recall what Mr. Krakauer said, but at the time that those cards were prepared, Mr. Wild had received a letter from the Revenue Agent's Office to bring in some substantiation in connection with regard to his '41 income tax return. I told Mr. Wild that he would have to have some records to substantiate his income tax. He told me that Mr. Krakauer would prepare them, and I don't exactly remember how the amounts were arrived at, or who arrived at them, but in no instance did I ever dictate any amounts to Mr. Krakauer to be put in any twelve cards.

Q. Were you there when Mr. Krakauer wrote the amounts on the cards?

A. I was not. I came in one day, I told Mr. Wild what we had to have, he called Mr. Krakauer in in my presence and said that we had to have records to substantiate it, and instructed Mr. Krakauer to prepare them. I came back the next day and the cards were prepared, and my recollection is that they were in Mr. Krakauer's handwriting.

Q. And those cards then were taken up to the Revenue Department and you accompanied Julius



(Testimony of Robert F. Callahan.)

up there as his agent or as [339] the man who prepared the cards, is that right?

A. No, I went as the man who prepared the return.

Q. Prepared the return—that is what I mean. Now, when you got up there, how long were you up there on that occasion?

A. Oh, my recollection is about, between 45 minutes and an hour.

Q. Did you bring the cards back to the betting establishment? A. I did.

Q. And to whom did you give those cards?

A. Gee, I don't recall with whom I left them, or whether I placed them on a table in the rear of the room with other betting cards for—what they were, I don't know.

Q. Did you tell Mr. Krakauer, do you recall, whether you had brought the cards back, or did you have any discussion with him subsequent to that?

A. I don't recall ever discussing bringing back the cards with Mr. Krakauer.

Q. When was the last time that you saw those cards?

A. The day we returned from the Revenue Agent's office.

Q. And that was in which year?

A. I believe that was in 194—I don't know whether it was '42 or '43.

Q. Well, maybe we can fix the time.

A. It was in January of either '42 or '43. I don't know which.



(Testimony of Robert F. Callahan.)

Q. All right. Now, there was some testimony by Mr. Krakauer [340] the other day about some showing of elation when you were coming back from the Internal Revenue Office. Do you recall the incident when you were coming back there, laughing or discussing anything with Mr. Julius?

A. I came back laughing because Julius had given me a tip that won.

Q. Now, with reference to Mr. Krakauer meeting at the bank subsequent to his being discharged by Mr. Wild, perhaps I should withdraw that and replace it and ask you a prefatory question. Do you know whether Mr. Krakauer left or was fired?

Mr. Campbell: Well, now, just a moment, I object to that unless it is shown in the light of a proper foundation.

Mr. Belli: Withdraw it.

Q. Do you know the circumstance of Mr. Krakauer's abrupt departure?

Mr. Campbell: May that be answered "Yes" or "No," if the Court please?

The Court: You may answer that "Yes" or "No," Mr. Callahan.

A. I am not sure what he means by "circumstance". I was not present.

The Court: All right.

Mr. Belli: Q. Well, what do you know about Mr. Krakauer's leaving the employment? [341]

Mr. Campbell: I object on the ground it is hearsay.

The Court: Sustained.

(Testimony of Robert F. Callahan.)

Mr. Belli: Q. Did you talk with Mr. Krakauer about his leaving the employ?

A. I did only in regard to a statement that I had prepared for him to sign releasing Mr. Wild, and also releasing Mr. Krakauer, that he had turned over all of the records of Mr. Wild.

Q. All right. Were you in court the other day when Mr. Krakauer testified from the stand that he had met you in the bank and told you that he was keeping all of these cards, 7, 8, and 9?

A. I was.

Q. Will you tell us what actually happened in the bank?

A. Mr. Krakauer at no time told me that he was keeping any records of Mr. Wild's. In fact, he told me the contrary at the time he signed that statement, that he had given to Mr. Wild all of the records.

Q. And by that statement, you are referring to our exhibit number—let's see, that is A. "That he has turned over all of the papers to Mr. Wild"? (Handing paper to witness.)

A. Yes, that is the one.

Q. And this paper, E for Identification, I will ask you if you have seen E before (handing to witness).

A. Yes, Mr. Krakauer had prepared this, himself, and had [342] asked Julius to sign it, and Julius asked me to prepare another one, which I did. I went to meet Mr. Krakauer, he signed it, and

(Testimony of Robert F. Callahan.)

Mr. Wild signed it, and I gave a copy to Mr. Krakauer.

Mr. Belli: All right, we offer now into evidence that which heretofore has been marked for identification as Defendant's E, being a set—

The Court: It may be received.

Mr. Belli: —your Honor, that this witness testifies was prepared by Mr. Krakauer—A, the receipt was.

The Court: They may be received and marked in evidence, Defendant's Exhibits next in order.

The Clerk: Defendant's Exhibit E in evidence.

(Defendant's Exhibit E for Identification was thereupon received in evidence.)

Mr. Belli: To read: (Reading.)

“San Francisco, California

9/29/43

“To Whom It May Concern:

I or my duly appointed representative .....  
do hereby certify that J. Krakauer has this day  
accounted to me for all monies in his charge—all  
records & accounts—all building & safety deposit  
keys—also any and all other material and chattels  
that may have been in his care.

/s/ JULIUS WILD,

By .....,

or by

.....,

Representative and agent.”

(Testimony of Robert F. Callahan.)

Mr. Belli: Q. Did Mr. Krakauer tell you at any time anything as to whether these cards or any cards that were kept there represented a true picture of the business? A. He did not.

Q. Did you see this black book of Mr. Wild's at any time? A. I did not.

Q. Now, you have some sheets that the Government asked you for when you were called up there to show your work sheet on the preparation of Julius' returns, is that right?

A. I co-operated with the Government, surrendered every record that I had regarding his account.

Mr. Belli: Gentlemen, do you have the work sheet?

(Paper handed to Mr. Belli by Mr. Campbell.)

Mr. Belli: Have you any objection if these go into evidence?

Mr. Campbell: Yes, I have no objection, those are the work sheets. Show them to him. I am sure those are the work sheets.

Mr. Belli: Q. I think you recognize these, do you? A. Yes, these are in my handwriting.

Mr. Belli: May we have those as one exhibit? It makes no difference whose.

Mr. Campbell: Will he identify those and the work sheets he used from which he prepared the 1942 and 1943 returns? [344]

The Witness: That is correct.

Mr. Belli: I think he will.

(Testimony of Robert F. Callahan.)

Q. You do, don't you? A. Yes.

Mr. Campbell: I will stipulate they may be received as Defendant's next in order.

The Court: Defendant's Exhibit next in order, the work sheets of Mr. Callahan, 1942 and 1943.

The Clerk: Defendant's Exhibit G.

(Work sheets referred to were received in evidence as Defendant's Exhibit G.)

The Court: For the use of either attorney.

Mr. Belli: Q. Now, from that information on that sheet, you then computed the returns for '42 and '43, is that right?

A. From the information given me by Mr. Wild, in addition to the expenses which are all that are shown on those work sheets.

Q. All right, now—

A. I prepared his returns.

Q. Will you tell us—if I may stand up here, let's see how we can do this— We have here a yellow sheet of paper. It says, "Operating statement, 1942," and you have got June through December, and then you have got "Wages, telephone forms, service, rent, tickets, sheets, selections," and what's that, "painting, decorating"?

A. I can't see it from here. I presume it is.

Q. And what is this, here (indicating)?

A. Toilet paper and soap and sweeping compound.

Q. "Caliente, Orpheum Building, Cal. Jockey Club, Miscellaneous," and I can't read the last.



(Testimony of Robert F. Callahan.)

And "Daily Paper," and "Silent Julie." What is this "Silent Julie" over here (indicating)?

A. That is what Mr. Wild told me that the purse that he had won on the horse was, \$800, and it had cost him \$1200 to keep the horse for that year.

Q. Did you take a loss of \$400?

A. I did not.

Q. Did he have Silent Julie in '41 and '42?

Mr. Campbell; Just a moment, that is objected to as calling for this witness' conclusion.

Mr. Belli: All right.

Q. Do you know?

A. Only from what he told me. I don't know.

Q. Now, will you tell the ladies and gentlemen of the jury how you computed these figures and where you got them from, and what they were? (Handing to witness.)

A. Well, the items shown as wages were the only records that I kept. I kept the record of all wages paid, the social security and the unemployment insurance. Those figures are exactly the wages reported to me as having been paid. The telephone—Mr. Wild gave it to me as estimated at \$8 a month, and I ran it for twelve months. The Racing Forms, he told me that they ran [346] on a 30-day month, \$100, and it was by the week, evidently, so some months it ran \$125. I put that in for the whole year, but there were no receipts given to me. The same applies to the next column for service. He told me that some months it was \$100 and



(Testimony of Robert F. Callahan.)

other months it was \$125, depending upon the number of weeks in the month. The rent he told me was \$100 a month and I carried it forward each month at \$100 a month for twelve months. The tickets he estimated by the month for me as between \$30 and \$25, and sometimes in the latter part of the year, as more. I computed that as \$30 and averaged it out, going one month as high as \$38. For the racing run-down sheets, he told me that in the first part of the year they ran approximately \$60 to \$65, and in the last part of the year between \$65 and \$70. [347] The selections were the same way. He told me that it cost \$100 to paint and decorate the room during that year. He told me that it cost for toilet paper and soap and sweeping compound approximately \$15 a month and then he told me about his trips to Caliente. And in order to substantiate that, I wrote to the airline company, I wrote to the hotel, and the only receipts that I could substantiate were for \$964 and \$65 which I showed on the work sheet. He told me that he received as income from the Orpheum Building \$1,119. In that year he told me that there was no dividend paid by the Jockey Club, and I have shown it as the item of "None". The daily papers he told me were approximately \$15 a month, for the twelve months, or \$180. He also told me that he had loans at Maxferd's and Morris Plan and I checked with those two firms, but I never received anything in writing. They did tell me that he did have loans there; they were reluctant to give

(Testimony of Robert F. Callahan.)

me any information, and Mr. Wild obtained for me the interest paid in each year. I carried that forward and totaled the expenses, the total expenses being those reported to me on an estimate basis of \$17,435. Mr. Wild told me that he had made approximately \$5,000. Adding to that the sum of \$4,998.36, I then put what appears as "gross take" on this sheet, of \$22,433.61, or showing a net profit of \$4,998.36, which is the amount that was reported on his 1942 income tax.

Q. That is the amount that appears in the actual return itself, [348] is that right?

A. That's right, and I did not take any logs for the purse that was won and the cost of the horse, because in my opinion it was not a deductible expense.

Q. All right. Now about 1943—

The Court: I think we had better take a recess.

Mr. Belli: I am sorry. I didn't notice the time.

The Court: Same admonishment, ladies and gentlemen, not to discuss the case or form or express an opinion thereon until it is finally submitted to you.

(Recess.)

[349]

Mr. Belli: Your Honor, there are two gentlemen here from the loan agency. The testimony we would elicit would be entirely documentary. I wonder if we could not put them on the stand so we won't have to keep them.

The Court: All right.

Mr. Campbell: No objection.

**SAMUEL ZEMAN**

called as witness on behalf of the defendant, sworn.

The Clerk: Will you state your name to the court and jury?

A. Samuel Zeman.

Direct Examination

Mr. Belli: Q. You were subpoenaed the other day by the Government? A. Yes, sir.

Q. And we subpoenaed you today ourselves?

A. Yes, sir.

Q. Pursuant to the subpoena you did bring a transcript of your account with Julius Wild?

A. As many as I could.

Q. Are there others besides these?

A. There might be others. There is a card system and there might be other records that I couldn't find the cards for.

Q. Some of the property with you still has not been redeemed, [350] has it?

Mr. Campbell: Just a minute, that's objected to as immaterial.

The Court: Sustained.

Mr. Belli: Did he have to sign, or did you trust him?

A. These are signed. Those are all signed by his handwriting.

Q. Were there any for which you took his word?

A. No, there is always a signature.

Q. You don't take anybody's word?

A. Well, it is required that we have them all signed, I think, by the police department.

(Testimony of Samuel Zeman.)

Mr. Belli: We offer these as our next exhibit, four cards.

The Court: So ordered.

Mr. Belli: Q. May we keep those and we will see that they are returned to you, and we will make photostats? A. Yes, that's all right.

(Thereupon the cards referred to were received as Defendant Exhibit H.)

Mr. Belli: Q. Now, you loan on collateral rings, jewelry, and something of that nature?

A. Jewelry and diamonds, yes sir.

Q. Will you look at these cards? You are a little bit more familiar than I am, fortunately, perhaps with these, and tell the ladies and gentlemen of the jury what the dates are, [351] the collateral and dates they were redeemed and the amounts?

A. On number one, he made a loan on a gent's white gold diamond ring with six diamonds and a gold open face diamond watch about 55 diamonds, and a chain, about \$1,000 on December 2, 1941. It was redeemed on February 6, 1942.

Q. All right.

A. One was a gent's white gold diamond ring that he borrowed \$800 on and was not redeemed, but was forfeited. It was borrowed in March, 1945, and forfeited in April, 1946.

Mr. Campbell: I submit that be stricken, please.

The Court: Granted.

Mr. Belli: Q. That is out of the years 1941, 1942, and 1943, do I understand correctly?

(Testimony of Samuel Zeman.)

A. Yes, the other one, number 4, is not. That was a gent's white gold diamond ring and diamond open faced watch he borrowed March, 1942, \$750 which was redeemed a year later, March 9, 1943.

Q. Can you tell us whether you recall Mr. Wild expressing his need for this money?

A. I wouldn't know.

Mr. Campbell: Just a minute, we object to that question.

The Court: Objection sustained.

Mr. Belli: You may cross-examine.

#### Cross-Examination

Mr. Campbell: I didn't get your name.

A. Zeman.

Q. As long as you are here, rather than call you back, you were requested to produce certain records for the Government, were you not?

A. That's right.

Q. And released, subject to a phone call?

A. That's right.

Q. Could you state, Mr. Zeman, the amount due from Julius Wild to your firm as of January 1, 1941?

A. The amount that was due at that time?

Q. Yes. Was there any amount owing to you from him on that date?

A. Nothing except what would be on the cards. He wouldn't be for any purchases; it was all for loans. [353]

Q. Yes. Did he owe you anything on account of



(Testimony of Samuel Zeman.)

loans on January 1, 1941, and if so, how much?

A. In 1941 he owed one for \$1,000.

Q. As of December 31, 1943, did he owe you any amount whatsoever? A. 1943?

Q. Yes. A. Not to my knowledge.

Q. He didn't owe you anything according to your records? A. Not to my knowledge.

Q. So there was no loan outstanding to Mr. Weil at that time? A. That's right.

Mr. Campbell: That's all.

Mr. Belli: I have no further questions.

The Court: The witness is excused.

### HARRY T. HICKS

called as a witness on behalf of the defendant; sworn.

The Clerk: Q. Will you state your name to the Court and jury? A. Harry T. Hicks.

### Direct Examination

Mr. Belli: Q. You are the gentleman from the Morris Plan that brought the transcript of Julius' account, is that right? [354] A. I am.

Q. Likewise you were subpoenaed by the Government? A. Yes, sir, I was.

Q. And told to bring records, is that right?

A. That's correct.

Q. You were then released by them the other day? A. Subject to phone call.

Q. And today you got a subpoena from the defendant to appear and testify for us, is that right?

A. I did.



(Testimony of Harry T. Hicks.)

Mr. Belli: All right. These three records we offer in evidence next for the defendant as one exhibit.

Mr. Campbell: I didn't look at them. I presume each card is relevant to the period here in question.

Mr. Belli: I can not say. I have never seen these before.

Mr. Campbell: I think they should be laid before the witness.

The Witness: One of them isn't.

The Court: Examine them.

Mr. Campbell: I think one of them is a card relative to a transaction after 1943.

The Witness: That's right.

Mr. Campbell: Q. The others are in the period of 1941, '42 and '43? [355]

A. That's correct.

Mr. Campbell: May that one card be removed?

The Court: Yes.

Mr. Belli: Q. You can take Julius' current card back there and tell us about the other two where Julius was in the red side with you.

A. The loan date of June 15, 1940, in the amount of \$3090 and paid off January 14, 1941.

Q. Yes.

A. A loan made November 14, 1941, in the amount of \$2556, paid in full November 13, 1942. Those are the only two within that period, November 1941, 1942 and 1943.

Q. He had an account with you before or after, though, did he? A. Yes, he did.

(Testimony of Harry T. Hicks.)

Q. All right, just these two cards, and they indicate what he put up there as collateral, right?

A. That's correct.

Q. Stock certificates and so forth?

A. Yes, they are all there.

Mr. Belli: We will get that from someone else. We offer these as our next exhibit.

Mr. Campbell: I have no objection.

The Court: So ordered.

(Bank record in question was thereupon received in evidence and marked Defendant's Exhibit I.) [356]

Mr. Belli: That is all I have.

### Cross Examination

Mr. Campbell: Q. Will you examine that, sir, and state the balance due from Julius Wild to the Morris Plan Company as of January 1, 1941.

A. \$2577.70.

Q. Will you state what balance, if any, was due from Julius Wild to the Morris Plan Company as of December 13, 1943, if any? A. No balance.

Q. In other words, he had paid back during that period of time the money which he owed you as of January 1, 1941, and had repaid any loan he made in the period, is that correct?

A. That is correct.

Q. So that there was nothing owing from him to you as of December 31, 1943?

A. That's right.

Mr. Campbell: That's all.

(Testimony of Harry T. Hicks.)

Redirect Examination

Mr. Belli: Q. However, he did not close the account with you?

A. The individual accounts were closed, but of course, it was open for future loans at any time.

Mr. Belli: All right. That is all. [357]

ROBERT F. CALLAHAN

recalled as a witness on behalf of the defendant, previously sworn.

Direct Examination (Resumed)

Mr. Belli: Q. By the way, statements were taken from you, Mr. Callahan, were they not, by the Internal Revenue Department?

A. They were.

Mr. Belli: If there is no objection, gentlemen, we have Mr. Callahan's statement. You have the original, and we offer that.

Mr. Campbell: I object to that. That is not proper.

Mr. Belli: All right.

Mr. Campbell: The witness is here on the stand.

Mr. Belli: Well, let us submit the offer of evidence to His Honor. We submit to offer in evidence the two statements made by Mr. Callahan when he was called to the Department of Internal Revenue.

Mr. Campbell: I object on the ground he is on the stand and here to testify in answer to any questions that counsel may propound.

The Court: The objection is sustained.

(Testimony of Robert F. Callahan.)

Mr. Belli: Now, you finished the one sheet. You didn't finish the other sheet. A. No. [358]

Q. Was it done in the same manner, without running over each item, the same columns and figures?

A. It was in the same manner, except in some instances the figures are changed, and in 1943 the Social Security and Unemployment Insurance showed an amount returned from the Orpheum Building was different and there was a payment by the California Jockey Club on stock.

Mr. Campbell: Will you state the exhibit to which the witness is referring?

Mr. Belli: That is A and B. I don't think we marked them A and B, but we can identify them.

Q. What is the number on the two pages?

The Court: The work sheets.

Mr. Belli: Q. Yes, the yellow large work sheets. Is that Exhibit G? A. G.

Q. By the way, the rent is listed on there as \$100, isn't it? A. The rent?

Q. Yes. A. Yes, on both.

Q. What did you ascertain subsequently the rent actually was?

A. I don't know. I just heard it in court what it was.

Q. All right. Then you can not comment on that. Did you see Julius take any sheets in the room other than the place where Mr. Krakauer was working? [359] A. Yes, I did.

Q. Did you see him do anything with those

(Testimony of Robert F. Callahan.)

sheets, or how did he operate?

Mr. Campbell: Let us have the foundation laid. I object on the ground no proper foundation has been laid.

The Court: Objection sustained.

Mr. Belli: Q. Let us have the year, the time and place and persons present—your best recollection.

A. Over a period of five or six years I saw him take bets on the phone.

Q. How large were the bets on the average?

A. I don't know.

Mr. Campbell: I make the same objection. The time has not been laid.

The Court: Sustained.

Mr. Belli: Q. You say over a period of five or six years. Does that include the period in question, 1941, '42 and '43? A. It does.

Q. What would he do with the bets that he would take?

Mr. Campbell: Same objection.

The Court: Sustained.

Mr. Belli: Q. How would he take those bets?

Mr. Campbell: Same objection.

The Court: Sustained.

Mr. Belli: That is during the years in question, Your [360] Honor.

Q. You were present at the time, were you not, Mr. Callahan?

A. On many occasions I was present in the place.

(Testimony of Robert F. Callahan.)

Q. All right, during these years, then, 1941, '42 and '43, when you state you were personally present and personally saw Mr. Wild, what did Mr. Wild do with these bets?

A. Wrote them on a piece of paper, a run-down sheet he had in front of him.

Q. What would he do with the paper?

Mr. Campbell: That is objected to as calling for the conclusion of the witness, and no foundation as to time.

The Court: Objection overruled.

Mr. Belli: Withdraw it.

Q. As I understand, the work sheets on these two pieces of paper were not taken from any cards. Now, will you tell us about 1941, the work sheet, or how you got the tax in 1941, the figures to support it?

A. In 1941 when I prepared his return I didn't have any figures. I just had the statements from Mr. Wild as to the amount of money that he had earned.

Q. With reference to the twelve cards, what year was that?

A. My recollection is now that that was in the payment of 1943.

Mr. Belli: You may cross examine.

#### Cross Examination

Mr. Campbell: Q. You say you have known Mr. Wild for a [361] number of years. Mr. Callahan?



(Testimony of Robert F. Callahan.)

A. Yes, I was a player in his bookmaking establishment since 1932.

Q. And that is how you happened to be present on these various occasions you had referred to; you said you had been there many times and seen many things. You were there as a customer, is that right?

A. Prior to 1942 I was, yes.

Q. And you were the person who prepared his returns for 1941, '42 and '43, is that right?

A. That's right.

Q. Do I understand correctly that in connection with the preparation of those returns you were not shown any books and records of any kind?

A. I was not.

Q. You never saw any little black book at any time?

A. I saw no little black book or big black book.

Q. As a matter of fact, didn't you on many occasions during that period of time tell Julius that he should produce some kind of books and maintain books to show what he was making?

A. I did.

Q. And that occurred on many occasions, is that right?

A. On many occasions.

Q. Nevertheless, in connection with any of these returns, he did not produce any records, did he?

A. On those twelve cards for 1941 which was subsequent to the time when the return had been made.

Q. In 1943, as I understand it, a letter was received asking for substantiation of the 1941 return, is that right?

(Testimony of Robert F. Callahan.)

A. Yes, I believe it was in January.

Q. Of 1943? A. Of 1943.

Q. It would not have been in 1942, could it, by reason of the fact that the 1941 return had not been filed in January of 1942, and I show you Government Exhibit No. 1 if you care to refresh your recollection so that the 1941 return was not in question by the Internal Revenue Agent in 1942, was it?

A. No, not that I know of, sir.

Q. Is it your best recollection that in 1943 the letter was received from the Internal Revenue agent asking for substantiation of the figures you had set up? A. That is correct.

Q. As I understand you, you were present at a conversation between Wild and Krakauer and yourself and at which I believe you say that Wild having told you first that Krakauer would prepare cards, that Krakauer was instructed to do, is that right? A. That is my recollection, yes.

Q. And you took twelve cards, as I understand you, down to the Internal Revenue agent, is that right? [363]

A. In company with Mr. Wild. I don't know which one carried it.

Q. And those were the twelve cards?

A. Those were the twelve cards.

Q. So you know at the time you took those cards down to the Revenue Agent those were not the cards you had at the time the return was made? Well, I will reframe that question.

(Testimony of Robert F. Callahan.)

At the time you took those twelve cards down and showed them to the Internal Revenue agent, you and Mr. Wild, in support of the 1941 return, you knew that those were records which had been made up within a few days of the time you went down there in 1943, didn't you?

A. No, I can't say I knew it.

Q. You were present when the instructions were given to Mr. Krakauer, according to your testimony, to make them up?

A. No, no, I don't want to be confused on that. My recollection is on that, that at the time this letter was received, Mr. Wild spoke to me about it, having made the return, and I said, "You will have to substantiate that," and he spoke to Mr. Krakauer and even at that time I never saw any records until the next day when I returned and the twelve cards were ready.

Q. My recollection of your testimony on direct examination, and correct me if I am wrong, was that Mr. Wild in your presence instructed Krakauer to prepare cards to substantiate the return; is that wrong or right? [364]

A. Whether he actually said to him in my presence to prepare them or not?

Q. Yes.

A. He spoke to Mr. Krakauer—what the exact words were I don't remember.

Q. And you knew, did you not, when you and Mr. Wild went down to the Revenue agent's office to support this '41 return that you were taking

(Testimony of Robert F. Callahan.)

cards which had just been prepared within the period of just a few days before you went down, is that correct?

A. It was my impression they were.

Q. That they were? A. Yes.

Q. Did you tell the Revenue Agent these were not cards that were prepared when the business was done back in 1941?

A. I don't even remember what the discussion was with the agent. It was mostly between Mr. Wild and the agent.

Q. All right, did Mr. Wild tell him that in your presence? A. Not in my presence, no.

Q. You were present at all times on that occasion? A. In Mr. Lippert's office?

Q. Yes. A. No, I did not hear that.

Q. As a matter of fact, they were handed to Mr. Lippert as being the twelve cards made up in 1941, weren't they?

A. My recollection was that there was a rubber band on them [365] and what was presented to Mr. Lippert I don't know, but I know there was no statement made that they had been just made up.

Q. I see. That was not told to him then?

A. No, not in my presence.

Q. And you examined those cards yourself before you took them down?

A. Did I examine them?

Q. Yes, did you examine them before you took them down? A. Yes.

Q. And they did substantiate the figures you had

(Testimony of Robert F. Callahan.)

set out in this 1941 return, Government Exhibit 1, is that right, sir?

A. To the best of my recollection they did—the exact amount, yes, sir.

Q. Yes, as I understand your testimony, the amounts set forth in here by you, for example, total receipts of \$19,758.58 was arrived at by your setting down certain expenses and then adding the sum of approximately \$5,000 and setting that forth as the receipts, is that right?

A. Yes, whatever the figure was he gave me, that is the way it was arrived at.

Q. And as I recall your testimony, you said Mr. Wild said, “I made about \$5,000,” is that right?

A. Well, that is my recollection. He did tell me off a piece of paper in his hand that it was, but I don’t remember.

Q. Did he say “\$5,000,” or did he give you a sum? [366]

A. My recollection is that he gave me a sum.

Q. Did he give you the sum of \$4998.36?

A. No, he might have given me \$5,000.

Q. Where did that \$4998.36 come from?

A. I don’t remember.

Q. Do you still have your work sheet for 1941, or did you ever have one?

A. No, I never had one.

Q. I beg your pardon. Possibly I have confused you relative to the \$4998.36. I have been questioning you as to one which is the return for 1941. Actually that figure was used by you for the



(Testimony of Robert F. Callahan.)

1942 return, is that right?      A. That's right.

Q. Now, isn't it a fact that in preparing the return for 1942 and setting up this work sheet that you first decided or were told what profit to report and then set in these figures here to support that?

A. Will you repeat that question?

Q. In other words, didn't you do exactly the reverse of what you say here, as I understand your testimony here, you gathered together certain expenses, and to find your gross you added to that a sum which Mr. Wild told you was his profit? Isn't actually the figure you started with his profit, and you put together certain expenses which would appear to be reasonable for that type of business.

A. No, the figures that I put down as expenses were given to me by Mr. Wild as an average monthly expense, but there were no receipts.

Q. And you looked no further and you saw nothing further with respect to these expenses other than wages?      A. That is all.

Q. For any confirmation.

A. That is correct; that is the only record I saw, was the wages and Social Security and unemployment, and I kept that myself.

Q. And the same method was followed in 1943, was it?      A. That is correct.

Q. And at the time that you say you were a customer there in 1942 you were not there daily, were you?

A. No, I wouldn't say I was [368] in there daily. Sometimes I would go in once a week. Prior to



(Testimony of Robert F. Callahan.)

1941 and 1942 I was in there quite often as a player.

Q. And you believe gross take in there was \$22,000 for 1942?

A. No, since I have seen the word "take," and found what they meant by that, it should be gross profit rather than gross take.

Q. Where did that figure you have here, gross take, or gross profit, if you recall, come from, \$22,433.61?

A. By taking the expenses, adding to it the amount given to me as profit, and that is how I arrived at the word "gross take" but which should be "gross profit."

Q. Can you state definitely now, that the amount that you added, which was \$4998.36, was that sum given to you by Mr. Wild, or did you supply that figure to coincide closely to a \$5,000 figure which he gave you?

A. It could have been supplied by to coincide with the \$5,000 figure. I don't remember the exact amount he gave me.

Q. Why didn't you use the \$5,000 figure, then, Mr. Callahan?

A. I don't know.

Q. You thought this would not be questioned, did you not, if you used a figure which came out in odd dollars and cents?

A. I thought it wouldn't be questioned?

Q. Yes. [369]

A. No, I didn't think that.

The Court: Q. Did you understand the import of this last question?

(Testimony of Robert F. Callahan.)

A. He says, did I think it would not be questioned if I used that figure, and I have said I did not. Wait a minute, that has got me confused.

The Court: I think probably the witness is confused.

Mr. Campbell: Yes, I will reframe the question. The last answer may go out.

Q. Isn't it a fact, Mr. Callahan, that you used the figure \$4998.36 because you believed that using a figure of an odd amount of profit rather than an even that the Bureau of Internal Revenue would not question the report that you prepared for Mr. Wild? Do you understand the question?

A. No, I don't.

Mr. Belli: If it would save any trouble, I object to the question as being argumentative, which I should have done in the first instance.

The Court: Objection overruled.

Mr. Belli: Well, the question is argumentative. May I have my objection in the record?

Mr. Campbell: I withdraw the question and put it this way:

Q. Your purpose in using the profit figure \$4998.36 was to avoid any questioning by the Internal Revenue Bureau of that [370] return, was it not?

A. It was not, and that is the reason I told Mr. Wild that he would have to have records to substantiate it.

Q. Now, what happened when you prepared the 1942 return?           A. That I told him that?

(Testimony of Robert F. Callahan.)

Q. Yes.

A. I told him that when I prepared the 1941 return, the 1942 return, and the 1943 return.

Q. And he never produced those records?

A. Never produced them.

Q. And you continued to make out his return for him?

A. I prepared it, but he signed it. I never signed it after the first one.

Q. You knew that it was not an accurate return and that was the reason you did not sign it?

A. I did not know it was not an accurate return.

Q. How does it happen you would say you did not sign it? A. That's right.

Q. And you would not sign it?

A. No, he signed it.

Q. But you didn't put your name down as the person who prepared the return, did you?

A. I did not.

Mr. Campbell: That's all.

### Redirect Examination

Mr. Belli: Q. Why did you continue to make the returns for Julius? Did you believe that the figures he gave to you were correct?

A. Did I believe them?

Q. Yes, did you find him honest?

A. Yes, I always found him honest. He was the only one in a position to know as to how much he was making, and I didn't know how much.

Mr. Belli: That's all.

Mr. Campbell: That's all. [372]

Mr. Campbell: If you are through with this witness and he may be excused, we will excuse him from the Government subpoena that he is still under.

Mr. Belli: With the exception of this, that I am going to renew my offer into evidence of the statements that were taken of Mr. Callahan in 1946—I think there were two of them taken at the Department. I think that they are admissible under the question of recent fabrication; in other words, to show the testimony then is the same as the testimony now.

Mr. Campbell: Well, we will keep Mr. Callahan here available if counsel wants to question him, and we can call him to the stand. The witness is here available and can be asked any question.

Mr. Belli: I think counsel missed the point. I would like to introduce his former testimony before the Department to show that there is nothing presently said that is a recent fabrication, that it is the same testimony here as was formerly given.

Mr. Campbell: I don't admit that is the fact, but these are certainly not material or competent here.

The Court: The objection is sustained. They may be marked for identification.

Mr. Belli: May we renew that, Your Honor, if I can show Your Honor a case on that theory of recent fabrication? I would like to have it introduced to corroborate his testimony, to show [373] that it was the same as the statement which was given.

The Court: They may be marked for identification, counsel.

Mr. Callahan: May I be excused in connection with this matter?

The Court: Certainly.

Mr. Belli: Let's see. How many have we got? Have we got the statement? This is one of Mr. Hughes'.

Mr. Campbell: If those are to be marked, I have the original here.

Mr. Belli: Have you got Mr. Callahan's?

(Thereupon a conversation between Mr. Campbell and Mr. Belli occurred outside the hearing of the Reporter.)

The Court: Mr. Schaeffer advises me that Mr. Callahan has to leave the jurisdiction to go to Portland. Now both of you gentlemen are advised of that fact? It is agreeable with you that we excuse him?

Mr. Campbell: Yes, Your Honor.

Mr. Belli: Yes, Your Honor.

The Court: All right.

Mr. Campbell: Now, I have here the original signed statement which I believe certain corrections were made in from place to place, and they may be marked for identification.

The Court: So ordered, and counsel representing the defendant may renew his offer at a later stage. [374]

Mr. Belli: All right.



The Court: Defendant's Exhibit K for identification.

(Signed statement referred to above was thereupon marked Defendant's Exhibit K for identification.)

Mr. Belli: May I ask through the Court, if there are any other witnesses present that we have subpoenaed just generally?

The Court: Yes, sir.

Mr. Belli: Are there any other witnesses subpoenaed that are here today?

(No response.)

Mr. Belli: Well, I presume Your Honor will want to run a little after 4:00 today?

The Court: Not necessarily.

Mr. Belli: Well, we might start with Mr. Wild tonight. He doesn't know he is going on; I might take him by surprise and put him on to get him started.

Mr. Campbell: I have no objection to a recess, if delaying his appearance in any way damages his case.

Mr. Belli: Let him go on.

The Court: May I ask counsel how long you anticipate we will take?

Mr. Belli: Yes, shall we approach the bench?

The Court: No. How many additional witnesses have you?

Mr. Belli: Well, I think that we will take probably [375] another court day, two hours in the morning and two hours in the afternoon. Not more than that.



Mr. Campbell: In view of the statement of defense offered by counsel, the Government will have some 15 witnesses, practically all of whom are of a formal nature, however, to produce records similar to the records produced by Maxferd's, and those two witnesses who have been on the stand.

The Court: So you anticipate it will take about a day in rebuttal?

Mr. Belli: I will be willing, if there are any records that are factual records, to stipulate to those. We might have them.

The Court: Well, you would say Wednesday, and then the case might go to the jury about Thursday?

Mr. Campbell: That would be my best estimate.

Mr. Belli: You think we would be safe in saying that we will conclude them?

The Court: I think under the circumstances we might adjourn at this time.

Mr. Belli: To be sure on Thursday, we can put him on and take a little now, Your Honor, if we want to.

Mr. Campbell: I would suggest, inasmuch as we are going over until Tuesday—it is difficult to interrupt.

The Court: Yes, and the jurors have been very patient—we ran late yesterday afternoon. [376]

Mr. Belli: All right.

The Court: Although we did have a short day today, we can't hasten the trial by putting Mr. Wild on for a few minutes today.

Ladies and gentlemen of the jury, next Monday is allotted to law and motions—Mondays are ordi-

narily allotted as law and motion days in these courts; we will therefore take up the further trial of this case next Tuesday. Not Monday, but next Tuesday at 10:00 o'clock. I again admonish you not to discuss the case with any person, nor suffer any person to converse with you on any subject of the trial, and not to form or express any opinion thereon until the case is finally submitted to you for decision.

Are there any *ex parte* matters, Mr. Schaeffer?

The Clerk: Not that I know of.

The Court: Are there any witnesses who are now in attendance whom you might desire to excuse?

(No response.)

Mr. Hughes: May I be excused?

The Court: So far as I am concerned, Mr. Hughes. The Court has excused you—unless counsel desire you for some purpose.

Mr. Belli: We don't.

The Court: Do you desire him?

Mr. Belli: No, we don't need him. I think he would be in San Francisco if we did. [377]

The Court: You are under no compulsion on the part of the Court.

Mr. Campbell: The Government has excused him, subject to anything which might develop.

The Court: That is a matter for you to work out with Mr. Hughes.

Are there any other witnesses outside of Mr. Hughes now?

(No response.)

The Court: We will stand adjourned in this case until next Tuesday at 10:00 o'clock.

(Thereupon an adjournment was taken in the above-entitled case until Tuesday, August 17, 1948, at 10:00 o'clock a.m.) [378]

Tuesday Morning Session, August 17, 1948, 10:00

The Clerk: United States v. Wild, on trial.

Mr. Belli: Ready.

Mr. Campbell: Ready.

The Court: The jurors are present, gentlemen—so stipulated?

Mr. Campbell: So stipulated.

Mr. Belli: Stipulated for the defendant.

Mr. Belli: May I proceed, Your Honor?

The Court: Yes.

### JOSEPH SAMMUT

called as a witness on behalf of the defendant, sworn.

The Clerk: Q. Will you state your name to the Court and jury?

A. Joseph Sammut.

### Direct Examination

Mr. Belli: Q. Did you have occasion to visit Mr. Wild's bookmaking establishment during the years—you don't have to stand up, sir.

A. I never knew the man. I never knew who he is. I never met the man in all my life. I never seen the man either and I don't even know him.

Q. You don't even know him when you see him here? [379] A. No, I don't.

(Testimony of Joseph Sammut.)

Q. You have never been in his bookmaking establishment?      A. No, sir.

Q. You never sent anyone to his bookmaking establishment?      A. No, sir.

Q. You worked in a booking establishment during those years?

A. Yes, I had a place of my own.

Q. Where?      A. On Sixth Street.

Q. And being in a like profession, you never heard of Julius Wild?

A. Never, no; I never know him or ever see him.

Q. Certainly, there are not so many books in San Francisco that you wouldn't know your competitors?

Mr. Campbell: Objected to as argumentative.

Mr. Belli: All right.

The Court: Objection sustained.

Mr. Belli: Q. And so we will be clear about it, did you have any nickname that was used during these years 1941, '42 and '43 that you bet under?

A. No, sir.

Q. It was Sammut?

A. My name is Joseph Sammut, J-o-s-e-p-h Sammut.

Q. And that is all you know?      A. Yes.

Q. You don't know Mr. Wild or anybody connected with Mr. Wild, or never bet there, or sent anyone over there, and never had any runners, although you worked and had your establishment all those years?

(Testimony of Joseph Sammut.)

Mr. Campbell: Objected to as argumentative.

The Court: Sustained.

Mr. Belli: That's all.

Mr. Campbell: No questions.

EMMA MARIE WILD

called as a witness on behalf of the defendant,  
sworn.

The Clerk: Q. Will you state your name to the  
Court and jury?

A. Emma Marie Wild.

Direct Examination

Mr. Belli: Q. Mrs. Wild, you are the wife of  
the defendant on trial here, Julius Wild, is that  
right? A. Yes.

Q. And you were married where and when?

A. In 1912 in Salt Lake City, Utah, at the  
Church of the Madeline.

Q. After you were married there you went to  
Texas, did you? A. El Paso, Texas.

Q. And there was a little nest egg or sum of  
money built up, was there, before the marriage?

A. Yes.

Q. And that was built up between Julius work-  
ing and yourself, was it?

A. Julius and myself had the monies.

Q. Was Julius interested in the horses back in  
1912? A. Well, that was his business.

Q. In 1912, is that right? A. Yes.

Q. What was he doing there? Was he connected  
with the track or what? A. Yes.



(Testimony of Emma Marie Wild.)

Q. When you came to Texas, did you buy some property in Texas? A. Yes.

Q. In which town, and I want you to be, over the years here, as we go through them, just as detailed and specific as you can, to give us at least some pegs on which we may hang certain of these figures to build your assets, whatever they are, to the present time. So, I ask you presently, when you went to Texas, you went to what town?

A. El Paso, Texas.

Q. Did you buy some property in El Paso, Texas? A. Yes, we bought a little home.

Q. Do you recall the address, where it was?

A. It was out on Westminster—I don't recall the address. I think it was 39 Westminster. [382]

Q. You lived there for how long, Mrs. Wild?

A. We lived there for not quite a year.

Q. Did you have any other property in El Paso?

A. Well, later we bought another home, but after we left our home there we were in the apartment house business. We had thirty apartments and I managed those for five or six years.

Q. Did you own them or just manage them?

A. We owned the lease and the furnishings.

Q. Did you make any money from those?

A. Well, yes.

Q. How long did you do that, over how many years? A. It was close on to five years.

Mr. Campbell: I am going to object to this line at this time as being too remote to the years in question.



(Testimony of Emma Marie Wild.)

Mr. Belli: All right, then I will ask the next question and see if it is remote.

Q. When you came to San Francisco, how much money did you bring with you?

Mr. Campbell: May we have the time, please?

Mr. Belli: Yes.

Q. When did you come to San Francisco?

A. It was in '27 or '26, and it was in June—I don't know the exact date.

Q. June of '26 or '27?

A. Yes, June of '26 or '27. [383]

Q. How much money did you have with you?

A. Well,—

Mr. Campbell: Just a minute, pardon me—I object to that question as too remote.

The Court: Objection overruled.

Mr. Belli: Q. How much did you have, Mrs. Wild?

A. I had close to \$20,000 from rentals from the home for a period of that time, from the time in 1913 until the time we came here.

Q. Now, in El Paso, did you bank there at any place? A. City National Bank in El Paso.

Q. City National Bank in El Paso?

A. Yes, sir.

Q. When you came out here in 1927, did you bring that money by draft, cashier's check, or how?

A. In cash.

Q. How did you bring it?

A. I brought it in cash and I had it in a safe deposit box.

(Testimony of Emma Marie Wild.)

Q. In the safe deposit box where?

A. Well, some of it in the safe deposit box and I had to keep a certain amount—I kept it in the home—a certain amount.

Q. Then you brought that out here in cash with you, did you?      A. Yes, I did.

Q. And when you brought that out here with you, where did you put it? [384]

A. In the beginning, we didn't put it anywhere, but when we moved to Larkspur I had a safe deposit box in Larkspur at the American Trust.

Q. Is there only one American Trust Company in Larkspur?

A. Yes, and as a matter of fact, they closed that branch just before we moved from there.

Q. How long did you have the safe deposit box at American Trust Company in Larkspur?

A. Well, I couldn't say offhand, Mr. Belli. We came over there, I think, about eight or nine years—something like that—maybe not that long.

Q. Now, with reference to this \$20,000, was that yours or was it Julius's or was it yours and Julius's?

A. Well, it was mostly from the rentals. I saved all, all what I made from the apartment and Julius worked and we lived off of that and saved even on that.

Q. Did you have that as late as what year—could you tell me?      A. What, sir?

Q. The \$20,000.

A. I had that as late as in early 1941.

(Testimony of Emma Marie Wild.)

Q. And where did you have it?

A. Well, after we moved from Larkspur I had it—I transferred the business to the American Trust in San Francisco.

Q. Which branch?

A. On Grant Avenue, near Market. [385].

Q. Grant and Market branch?

A. Yes, sir, that is near Market.

Q. All right. Now, with reference to this twenty thousand, did you give that, or any of that subsequent to 1941, to Julius?

A. No, I didn't touch that.

Q. What happened to the twenty thousand?

A. I gave that—during that period Mr. Wild needed monies and I gave most of it to Julius during the period of 1941, '42 and '43.

Q. Why did he need money during that period, do you know of your own knowledge?

A. Well, like always during the past years he had always come to me where his business demanded it, where he would have great losses and I would have to out of savings and what have I, furnished him the wherewith.

Q. Was he drinking during those years, Mr. Wild, '41, '42 and '43?

A. Well, not to any extent. He would take a drink or so. He would drink, yes.

Q. You lived with him continuously up to the present time as husband and wife, didn't you?

A. Yes.

(Testimony of Emma Marie Wild.)

Q. Was there any period of time when the two of you were separated?

A. Yes, for a while. [386]

Q. What year?

The Court: What possible bearing would that have on the controversy?

Mr. Belli: It would indicate any derelictions Mr. Wild might have had mentally that might have accounted for his losses during the period, rather severe losses.

The Court: The defendant's mental derelictions are not at issue here.

Mr. Belli: Your Honor recalls what went on before the trial.

The Court: If you want to draw any inferences from that, I am sure Mr. Campbell would consent to a full and open disclosure on everything that took place before and during the trial. I venture to suggest to you that this line of examination has very little bearing, if any, on the controversy.

Mr. Belli: I think it would show that the man's net worth at the beginning of the period and end of the period would indicate he could not have made the money the Government claims.

The Court: I particularly directed your attention to the matter of separation, or alleged separation, and any domestic discord that may have followed.

Mr. Belli: Not as to the question of the net worth?

The Court: That is a matter that still bears

(Testimony of Emma Marie Wild.)

some observations, but thus far I can not see the relevancy of the point. [387]

Mr. Belli: Of which question?

The Court: The question of the net worth at this juncture.

Mr. Belli: For the purpose of the record, may I take exception to Your Honor's remark and ask Your Honor respectfully to instruct the jury to disregard them? May I proceed, Your Honor?

The Court: Ladies and gentlemen of the jury, counsel has requested I instruct you concerning your possible disregarding of the matter of the net worth. At a proper stage in this case I will instruct you fully with respect to the matter of delineation of the evidence concerning the defendant's income during the years 1941, '42 and '43. I again reaffirm what I have already announced to you, that the matter of the net worth in years long prior to 1941, '42 and '43 have no possible relevancy or bearing upon the activity of the defendant Julius Wild during the years in question.

Mr. Belli: May I also take exception respectfully to those remarks to the jury at the present time, for the purpose of the record?

The Court: You may take an exception.

Mr. Belli: I shall then desist from any questions of any marital discord and go into the question of net worth and bring it up to the present time.

The Court: Unless, counsel, you have some reason not thus far disclosed why you feel that such testimony would have a [388] possible bearing.



(Testimony of Emma Marie Wild.)

Mr. Belli: Well, I don't want to prejudge the rebuttal of the Government, but if it becomes necessary to go into that I am sure Your Honor—as Your Honor has in the past, will give me all the leeway necessary to go into that.

The Court: If at the proper time you can indicate to the Court the relevancy that testimony might have, you may go into that.

Mr. Belli: We will desist presently and conclude with the net worth.

Q. Coming up to the year 1941, Mrs. Wild, I think we have established there was funds and cash of some \$20,000. Of this cash how much was left in the period 1941 to 1943?

A. Of the cash in the bank?

Q. Yes.

A. \$1994.92, or 1992.94 at the end of 1943.

Q. You have some savings books indicating that?

A. Yes.

Q. With reference to savings accounts, at the beginning of the period, that is, at the period 1941 and including 1943, did you have a savings account any place?      A. Yes.

Q. And where was the savings account? Give us the name of the bank, the branch and everything else.

A. Well, from 1941 it was the Day and Night Branch of the [389] Bank of America and from early 1943 it was in Redwood City at the Bank of America on Broadway.

Q. Is that the bank that you mentioned there



(Testimony of Emma Marie Wild.)

was \$1992.94 that was left at the end of the period?

A. Yes, I am quite sure.

Q. And again, how much was in the savings account at the beginning?

A. In the beginning there was \$3525.

The Court: Q. What was that figure?

A. \$3525 at the beginning.

Mr. Belli: Q. You have the bank books on them? A. Yes, but I didn't bring those.

Mr. Belli: Well, we will have those.

Q. Now, outside of this one lump sum of cash that you had brought from Texas—well, we will let that go for the moment. Outside of the lump of cash did you and Julius have any other cash?

A. Yes, there was earnings of his we saved to live on.

Q. How much did it cost you a month to live during the period 1941, '42 and '43?

A. Well, I should judge close to \$400, between \$350 and \$400.

Q. Where did that money come from?

A. Well, out of stocks and savings.

Q. Now, you mentioned some stocks. There are stocks in Orpheum, Universal Totalisator and California Jockey Club? [390] A. Yes.

Q. There are no other stocks than that, or are there? A. No.

Q. Are those stocks held jointly between you and Julius? A. Yes.

Q. In both your names?

(Testimony of Emma Marie Wild.)

A. Yes—outside of the California Jockey Club—in my name.

Q. At the beginning of the period, do you recall how many shares you had in the Orpheum Building?

A. At the beginning of the period it was around 1577 shares. [391]

Q. At the end of the period?

A. At the end of the period it was 3987, or something—it was approximately close to that.

Mr. Campbell: Is this California Jockey Club?

Mr. Belli: This is just the Orpheum, the first block.

The Witness: Yes, the Orpheum.

Mr. Belli: Q. You know the figures; you have gone over them with Mr. Bauer on my account?

A. Yes.

Q. And we have the lum sum of cash; No. 2, the savings account; and No. 3, the Orpheum stock?

A. Yes.

Q. And you say 1577 shares in the beginning?

A. Yes.

Q. That was 1941? A. Yes.

Q. And that was increased to 3978 during the period 1941 to 1943, is that right? A. Yes.

Q. Now, No. 4, of the assets on the second block of stocks, the California Jockey Club, how many shares did you have at the beginning or before 1941? A. Before 1941?

Q. Yes. A. Just myself, or——? [392]

Q. Between the two of you.

A. Between the two of us?

(Testimony of Emma Marie Wild.)

Q. Yes.

A. 180 shares, but the original—when it was bought in the period of 1934, that is, when the California Jockey Club was incorporated, the shares were \$100 a share, and 100 shares—that would be \$10,000 that Julius paid and then he bought 10 shares from Mr. Benn for cash, \$60. So the original cost of the 180, of which—well, that was \$10,600. That was in 1934 when they were incorporated.

Q. Before 1941 you had \$100 a share and there was a stock dividend that gave you 180?

A. No, 110 shares with the 10 from Mr. Benn; but there was 70 shares given as dividend and that was held in escrow for a period of years.

Q. But that was all before 1941?

A. Before 1941 they were issued. I think they were issued in—I don't remember, it may have been 1937 or in that whereabouts.

Q. Well, we will get that. But between 1941 and 1943, there were, as I understand, 10 shares bought?

A. Of California Jockey Club?

Q. Yes, of the California Jockey Club.

A. No, of the totalizator.

Q. None of the California Jockey Club? [393]

A. No.

Q. And then, of the totalizator—by the way, that is one of those machines that they use at the track?

A. Yes.

Q. Did you have any of that before the period of 1941?

A. No.

Q. Did you buy that after 1941?

(Testimony of Emma Marie Wild.)

A. Julius did.

Q. What?

A. I'm quite sure Julius did.

Q. You didn't have anything before?

A. No.

Q. In between 1941 and 1943 how many shares of that were bought?      A. There were only 10.

Q. Now, the 6th item, the home—how much did you pay for the home?      A. \$7500.

Q. When did you buy that?

A. In 1943 we moved in, in April.

Q. April, 1943?      A. Yes, April, 1943.

Q. That was the full price of the home?

A. Yes.

Q. \$7500?      A. Yes. [394]

Q. That is the home down in Redwood City?

A. Yes, that is the home down in Redwood.

Q. With reference to Government Bonds, they were not issued before 1941, of course?

A. No.

Q. So you bought some Government Bonds, did you, between 1941 and 1943?      A. Yes.

Q. Do you recall how much they amounted to, or how much they were?

A. Well, according to what I can figure, it is around 4500, but I think there was more that was given as charities.

Q. What do you mean, given as charities? —Given to you as charities?

A. No, not to me; but Mr. Wild gave. I think there are some bonds out, and I couldn't say.

(Testimony of Emma Marie Wild.)

Q. You mean that he bought and gave to charity? A. Yes.

Q. Well, we will ask him about that; but you bought around \$4500, is that correct?

A. Possibly, yes, I couldn't say the exact figure.

Q. Do you yourself know about the Howard and Waters loans?

A. Yes, Julius had borrowed off of them frequently.

Q. Do you know how much the Howard loan was and how much the Waters loan was? [395]

Mr. Campbell: Just a minute, that's objected to as not the best evidence, The Court, and heresay.

The Court: Objection sustained.

Mr. Belli: We will ask Mr. Wild on that, Your Honor.

Q. Now, during the period 1941 to 1943, did you have any extraordinary expenses, or extraordinary luxuries, or any luxuries of any kind? Any coats or diamonds? A. No, I lived very thrifty.

Q. You lived down at this place in Redwood City all the time?

A. Well, from 1943; we moved down in 1943.

Q. Did you take any trips or any vacations with Julius? A. No.

Q. When he would go down to Caliente or San Diego on those week-end trips you did not go with him?

A. Not very often. Maybe occasionally I did.

Q. Sometimes?

A. Sometimes, yes, but not every time he went down.



(Testimony of Emma Marie Wild.)

Q. All right, Mrs. Wild, first let me ask you: Did you have anything else during this period that was given to you or that you got from your husband or from anybody in the world during the period 1941 to 1943 other than that which you have told me? Did you have any other safe deposit boxes or did you have any other savings accounts or did you have any other jewelry anyplace in the world other than that which you have told us about during the period 1941 to 1943? [396]

A. What jewelry I had was before that time and Julius always had diamonds.

Q. Was this before 1943?

A. Yes, that was before 1943. I have the ring that was made up when we were first married.

Q. All right, but you got none during this period? A. No.

Mr. Belli: You may cross-examine. [397]

#### Cross-Examination

Mr. Campbell: Q. Now, Mrs. Wild, do I understand your testimony that as of December 31, 1940, or January 1, 1941, you had some \$20,000 in cash?

A. Yes.

Q. And that cash was kept either in your home or in the safe deposit box? A. Yes.

Q. Where was it kept, the safe deposit box or in the home? A. Most of it in the home.

Q. How much of it in the home?

A. Oh, I should judge over \$10,000.

Q. And the balance was kept in the safe deposit box? A. Yes.



(Testimony of Emma Marie Wild.)

Q. It was not in any bank account anywhere?

A. Not that, no.

Q. And in what form did you have it?

A. Well, I brought it out, or——

Q. I mean to say, was it in currency?

A. In currency.

Q. In what denominations in currency?

A. In \$1000 bills.

Q. You had 20 one thousand dollar bills?

A. Outside of that?

Q. No, you had 20 one thousand dollars bills?

A. No, not 20 one thousand dollars bills.

Q. How many one thousand dollar bills did you have?

A. Well, I can't tell off-hand. That is quite a bit of time ago.

Q. Was it as much as half the money that was in one thousand dollar bills?

A. Probably, yes.

Q. So you had at least 10 one thousand dollar bills?      A. Yes.

Q. Now, when did you cash any of those one thousand dollar bills?

A. I didn't cash any of those one thousand dollar bills. That was a nest egg I held onto.

Q. Do you still have it?

A. No, I don't; but Mr. Weil got most of the money during that period of time.

Q. Can you tell us any time you gave him any one thousand dollar bills?      A. Oh, yes, sir.

Q. All right, what dates?

(Testimony of Emma Marie Wild.)

A. I couldn't say the dates, sir.

Q. Did you give him any one thousand dollar bills in 1941?      A. I don't recall.

Q. Did you give him any one thousand dollar bills in 1942?

A. I probably have; I wouldn't know.

Q. Have you any definite recollection at this time? [399]      A. No, I don't.

Q. Did you give him any one thousand dollar bills in 1943?

A. Yes, I think—Well, I don't recall that it was early——

Q. You don't know?

A. I didn't keep track of it or keep a record of it.

Q. You are aware of the fact that banks make a record when a \$1000 bill is presented?

A. I don't know where Julius cashed it, or if he did.

Q. I was just going to ask you; do you know where Julius cashed any of these \$1000 bills?

A. No, I don't.

Q. You do recall definitely that part of this money was in \$1000 bills that you gave him?

A. Usually in \$1000 bills, \$500 bills and \$100 bills.

Q. You had no bills smaller in denomination than \$100, is that right?      A. No.

Q. Incidentally, Mrs. Wild, during 1941 and 1942 you and Julius were living separate and apart, were you not, is that right?      A. Yes, sir.

(Testimony of Emma Marie Wild.)

Q. And Julius, as a matter of fact, was paying you for your support \$100 during that time, wasn't he?

A. Not regular—spasmodically. In 1938 and 1939 he paid.

Q. Didn't you report on your income tax returns for 1941 and [400] 1942 that you received that sum?

A. Yes, but I didn't get it regular. I have the copies, and as a matter of fact I think it is on 1938 where it was agreed that he give me \$100 a month, but I didn't get that regular; it was spasmodically.

Q. So, in filing a return that he was paying you \$100 a month, you did not state what the actual fact was? A. Sir?

Q. When you filed a return that he was paying you \$100 a month during the period of the separation that was not the fact that you were——

A. As a matter of fact, through those years I was giving him money. It was just off of dividends.

Q. Yes, but you reported, however, to the Government that he was paying you money?

A. In 1938 I reported, but he didn't continue.

Q. Didn't you also so report in 1941 and 1942?

A. I haven't that in mind—I don't remember.

The Court: You better present the documents to the witness.

Mr. Campbell: Yes, I am going to, your Honor.

The Witness: I have a copy, but I don't recall that.

Mr. Campbell: Q. Let me call your attention to Government's Exhibit No. 4, the return of Emma

(Testimony of Emma Marie Wild.)

M. Wild for 1941. That is your return, is it not, Mrs. Wild?

A. Yes. Well, sir, this here is dividend on the stock. [401]

Q. That you have reported there?

A. Yes, that is dividend on the stock.

Q. The fact that it is the sum of \$1200 is something you say that was dividends?

A. Yes, I am quite sure.

Q. All right, I will show you Government Exhibit No. 5, the return for 1942. Is your testimony the same as to that?

A. Well, in 1942 there was no dividend.

Q. That is correct? A. Yes.

Mr. Belli: Will you talk a little louder, Mrs. Wild?

The Witness: Yes.

Mr. Campbell: Q. Does that refresh your recollection as to the amount of \$1200 you are reporting there that you received from Julius Wild?

A. Well, it probably was not all from him. I probably added to it.

Q. What other sources of income did you have in 1942? A. No other income.

Q. No other income?

A. It probably was what he gave me.

Q. That refers to the money he gave you in 1942?

A. It must be, because there was no dividend in 1942.

Q. Do you recall, Mrs. Wild, being interviewed

(Testimony of Emma Marie Wild.)

by Special Agent William Burkett on December 16, 1946? [402]           A. Yes.

Q. You recognize him here in the courtroom?

A. Yes, I do.

Q. Didn't you state to him on that occasion, during that interview, that the only property that you had as of January 1, 1941, was that which was reflected in the bank accounts or in the Jockey Club or Orpheum stock?

A. No, I didn't state that. He asked me if I had a safe deposit box and how I kept my money, and I didn't specifically tell him.

Q. You did not specifically tell him?

A. No, I didn't; I recall that.

Q. Didn't you state to him specifically that you had no money in cash other than what was represented in the bank account as of January 1, 1941?

A. I don't recall that.

Q. You don't recall making any such statement?

A. No, I don't.

Q. Now, Mrs. Wild, you referred to a savings account which you had in 1941 at the Day and Night Bank, and stated that you had some \$3525, approximately, there at the beginning, is that correct.

A. Yes.

Q. And I believe you stated that you also had a savings account or a savings account in your name—pardon me, was that [403] account in your name that I have referred to?

A. That was in my name. The one you are referring to?



(Testimony of Emma Marie Wild.)

Q. In the Day and Night Bank. A. Yes.

Q. Was that savings account No. 28603?

A. I couldn't recall that.

Q. You couldn't recall that? A. No.

Q. But if I mention the figure to you of \$3537.25 as being the amount on January 1, 1941, would you say that is correct? A. Yes, that's correct.

Mr. Belli: How much was that?

Mr. Campbell: \$3537.25.

Q. Was there also another savings account you know of being numbered 220 in the amount of \$352.25? A. Where?

Q. At the Day and Night Bank.

A. I don't recall that.

Q. You don't recall that?

A. I don't recall that.

Q. I believe you stated as of December 31, 1943, there was a savings account in the Redwood City Branch of the Bank of America. A. Yes.

Q. Would that be account No. 298? [404]

A. Yes.

Q. You mentioned the sum of \$1992. If I mentioned the sum of \$1992.24, would that be correct?

A. That would be close. I don't know what the cents were, but it is close, yes.

Q. Did you know, also, about a commercial account in the name of Julius at the American Trust Company, Civic Center Branch, on the 1st of January, 1941?

A. I knew he carried his account there, but as



(Testimony of Emma Marie Wild.)

far as what he had there, I couldn't give you any account on that.

Q. Do you recall the fact that as of December 31, 1943, there was a commercial account in the American Trust Company, Civic Center Branch, in the name of Julius and Emma Wild, in which there was deposited on that day \$2108.82?

A. Julius and Emma Wild?

Q. Yes. A. I don't know of that.

Q. You don't know of that? A. No.

Mr. Belli: How much was the amount?

Mr. Campbell: \$2108.82.

Q. Now, you refer to certain United States savings bonds which were purchased during the period. You gave a sum, I believe, of approximately \$4,500.

A. Not quite \$4500, and what Julius has bought other than that [405] I wouldn't know, if there are others outside of that. I know that he bought two for charity, for Monsignor Collins, and Bishop Shuler.

Q. You had no savings bonds in 1941, there having being none issued?

A. No, none were issued.

Q. If I stated as of December 31, 1943, you and Julius had uncanceled or unredeemed bonds of a total purchase price of \$4012.50, does that refresh your recollection?

A. I can recall one that I cashed in.

Q. But taking into consideration bonds which may have been cashed, did you as of December 31,

(Testimony of Emma Marie Wild.)

1943, still have on hand bonds which cost \$4012.50?

A. Yes.

Q. That would be correct?

A. Yes, I think so.

Q. Now, I believe you said you and Julius had purchased some shares in the Jockey Club, but your entire investment was made prior to January 1, 1941, was it not?

A. Oh, yes, that was made during the period before 1934—see?

Q. When the club was being built?

A. Yes, when the club was being built in 1934.

Q. You did not either dispose of any shares you might have had or purchase any more shares during the period 1941, '42 and '43? [406]

A. Well, I didn't; but Julius bought ten shares from Eddie Benn.

Q. In what year did he buy that?

A. I don't know just what year.

Q. Was it during this period of 1941, 1942 or 1943? A. No, it was not during that period.

Q. No, I was asking you if you purchased any more during that period.

A. No, not during that period.

Q. Or did you dispose of any? A. No.

Q. So, your investment in the Jockey Club remained the same throughout the period of time?

A. Yes, since 1934.

Q. And it was approximately \$10,600?

A. Yes, that was the original price.

Q. You would state, however, that you had increased your holdings in the Orpheum Building

(Testimony of Emma Marie Wild.)

Company during the period here in question, would you? Is that correct?      A. Yes, sir.

Q. I believe you stated that prior to January 1, 1940, you had a certain number of those shares?

A. Yes, sir.

Q. Was that 1400 shares?

A. Fourteen, or about that, or 15—something around there. [407]

Q. Do you recall how much?

A. I think 1577 shares, I think it is.

Q. Wasn't the exact amount \$1400, represented by certificate No. 232 issued on September 3, 1940? Would that be right?

A. Probably that's correct.

Q. And wasn't your investment approximately \$3850 in that first acquisition?

A. I wouldn't know; Julius bought that.

Q. You don't know that?

A. No, I don't know that.

Q. Now, during the period 1941—

Mr. Belli: May I interrupt here? I wonder if we could stipulate on the average cost of these shares? The Orpheum, \$3.25, would that be about right?

Mr. Campbell: Well, Mr. Belli, I have the low figure for each of the acquisition days, and we are willing to accept that if you are willing to stipulate that. We have secured the high and low, and we have a witness from the brokerage house ready to testify to that.

Can it be stipulated, then, that the following shares were acquired on the dates and at the low

(Testimony of Emma Marie Wild.)

figure for that day which I will state in each case.

Mr. Belli: These are checked from the registrar of the stock?

Mr. Campbell: That's right, we have checked with the [408] registrar and we have checked with the brokerage house.

Mr. Belli: All right.

Mr. Campbell: On March 10, 1941, there is a certificate No. 918, for 100 shares, low for that day being \$3.25 per share, or \$325.

On August 30, 1941, by certificate 989, 418 shares; low figure for that day being \$3.25, for a total of \$1358.50.

September 19, 1941, certificate No. 994, for 606 shares, low for that day being 2.5 per share, or \$1515.

On September 24, 1941, certificate No. 997, for 275 shares, the low for that day being \$2.75, for a total of \$756.25.

On October 3, 1941, certificate No. 998, for 100 shares, the low for that day being 3.375 per share, or a total of \$337.50.

On October 15, 1941, certificate 1002 for 113 shares, the low for the day being \$3.375, or a total of \$381.38.

On December 10, 1941, certificate 1030 for 118 shares, the low being \$3.5, for a total of \$2513.

On May 28, 1943, certificate 1251, 50 shares, the low for the day being \$4, or a total of \$200.

On June 1, 1943, certificate 1256, 200 shares, the low for the day being \$4, or a total of \$800.

Mr. Belli: Low being how much?

(Testimony of Emma Marie Wild.)

Mr. Campbell: \$4 even. The high was \$4.3750, but [409] we adopted the low.

On July 21, 1943, certificate 1285 for 212 shares, low for the day being \$4 even, or \$848.

On August 12, 1943, certificate 192, for 1000 shares, low for the day being \$4.5, or \$4500.

On November 23, 1943, certificate 1311, for 186 shares, the low for the day being \$4.875, or a total of \$906.75.

Will it be stipulated that those shares were purchased on those days and for those amounts?

Mr. Belli: They add up to how much, Counsel?

Mr. Campbell: I am just about to give that. The certificate which I have read as being purchased in 1941, 1942 and 1943 add up to \$14,441.38, there having been on hand, purchased in 1940, 232 at \$3850, so that the total shares represented a cost of \$18,291.38, figuring at the low of each day of acquisition.

Mr. Belli: Your two totals are the total at the beginning of the period plus the total at the end of the period, which is eighteen and what?

Mr. Campbell: \$18,291.38.

Mr. Belli: That includes what he had before the period?

Mr. Campbell: That includes \$3850 before the period and \$14,441.38 during the period.

Mr. Belli: We will stipulate to that.

Mr. Campbell: So stipulated. [410]

Q. You stated during this period, Mrs. Wild, that you and Mr. Wild purchased some 10 shares



(Testimony of Emma Marie Wild.)

of totalizator stock. Can you state how much was paid per share for that?

A. Well, the price was \$100, but I don't know what the transaction on that was, how it was paid out, or whether there was money in on them, or maybe a debt owing him—I don't know.

Q. The price was \$100 a share? A. Yes.

Q. Or \$1000 for the 10 shares, is that right?

A. Yes.

Q. During the period in question here you also acquired a new automobile, did you not?

A. Yes.

Q. What make of automobile was that?

A. A Dodge.

Q. Do you recall the purchase price of that Dodge?

A. I think it was about \$1200 and something, and I paid it off.

Q. Would it refresh your recollection that the new Dodge was purchased on February 21, 1941, and the price was \$1445.76? Does that figure refresh your recollection?

A. I have it at \$1200 and something.

Q. You were, as a matter of fact, given a trade-in allowance of \$365.12 on an old Dodge you had prior to 1941? [411]

A. It was an old Studebaker.

Q. Well, an old car.

A. Yes, that was the turn-in price.

Q. You had also a Pontiac car during the period? A. Not me.



(Testimony of Emma Marie Wild.)

Q. Mr. Wild had?

A. I don't remember whether he acquired that during the period or not.

Q. You recall he had a Pontiac?

A. He had a Pontiac, but I don't know whether it was in 1941 or 1942.

Q. Do you recall the fact that a residence was purchased in 1943?      A. In April.

Q. At Redwood City, I believe?

A. Yes, sir.

Q. For 7500?      A. Yes.

Q. And that was paid in cash?      A. Yes.

Q. And you paid the full amount of the purchase price?

A. Yes, but between the two of us, yes sir.

Q. You recall, also, during this period, that Julius acquired a rather expensive diamond ring in some transaction which he had? [412]

A. I wouldn't know about that.

Q. You wouldn't know about that?      A. No.

Q. And I believe you stated that your living costs during this period of time were fairly nominal; you had estimated them at \$350 to \$400 a month, is that right?      A. Yes.

Q. And that was throughout this period?

A. How?

Q. \$350 to \$400 a month?

A. Yes, that is for the both of us, possibly.

Mr. Campbell: That is all.

Mr. Belli: That's all, thank you, Mrs. Wild.

Your Honor, may we have the recess at this time?

The Court: We will take the morning recess at this time, ladies and gentlemen. I again admonish you not to discuss this case among yourselves nor suffer or permit anyone to converse with you on any subject in connection with the trial, nor form or express any opinion thereon until the matter is finally submitted to you.

(Recess.) [413]

### JULIUS WILD,

called as a witness in his own behalf, sworn.

The Clerk: Q. Will you state your full name to the jury?      A. Julius Wild.

The Clerk: Thank you.

### Direct Examination

Mr. Belli: Q. Julius, you are the defendant in this suit, are you?      A. Yes, sir.

Q. Living presently in Redwood City?

A. Yes, sir.

Q. And your wife preceded you to the stand here, is that correct?      A. Yes, sir.

Q. With reference to your activities in the horse racing business, have you been engaged in that all your life?      A. 49 years.

Q. And when you lived in Texas, just before coming here—and you will be brief on this—what work were you doing there?      A. In Texas?

Q. Yes.

(Testimony of Julius Wild.)

A. Well, I was messenger boy at the race track, I was a bartender, and I also run and managed the Knickerbocker Bowling Club and—well, I was in charge—everything—and I had charge of the Soldiers Club during the war, two years, and on Armistice [414] Day I quit. They wanted me to go and get some—one of these young fellows—

Mr. Belli: Well, let's skip that.

The Witness: They wanted me to go to New York to go overseas and meet Mr. Fosdick—

Mr. Belli: Wait just a minute. Throughout your testimony remember the horse that was named after you, and just answer the questions and we will get along faster here.

When you were making book, as the expression goes when you were in Texas, where were you there? A. At the racetrack, yes.

Q. Where? A. In Juarez.

Q. Was it legal in Texas?

A. That was in Mexico.

Q. When you came out to California—who had the management of the family funds, you or your wife or both of you? A. My wife at all times.

Q. Do you know what money she came out here with?

A. She was pretty well heeled. I did not know the exact amount of it. We had a joint account. I never drew a check—never drew a dollar of Mrs. Wild's account in my life.

Q. By the way, how long have you known Mr. Krakauer?

(Testimony of Julius Wild.)

A. Mr. Krakauer—I met him when I was tending bar. I used to wait on him and his brother when I was a bartender, right [415] across the street from him.

Q. Where was this?

A. In El Paso. They had a big hardware store, the biggest in the city over there.

Q. And then did Mr. Krakauer come to California with you?

A. No, I think I came before he did.

Q. When you got out here, did you go into the booking business right away?

A. I did not. I was a clerk in a bookie at the Ormay Club at 1164 Market Street.

Q. How long were you clerk before you got your own book?

A. I was clerk about two years, I would say about two years.

Q. When did you take over this business at the basement of the Orpheum Building?

A. At the Orpheum Building after Jim Bailey left it, he turned it over to me.

Q. Before you went into the Orpheum Building were you some place else making book?

A. Yes, I would go to Los Angeles when the races was there at the old Santa Anita racetrack. I used to book out on the lawn, when it was legal.

Q. What date was it, so we can fix it, that you started in in the Orpheum Building?

A. I couldn't even tell you what year.

Q. About when? [416]

(Testimony of Julius Wild.)

A. I would say maybe around 1935, I was in there off and on.

Q. About 1935 you started, is that right?

A. Around 1935.

Q. That went on until about what year?

A. That went to the end of September 1944.

Q. After Mr. Krakauer left, was there very much business, or can you tell us how much business there was?

A. Well, after Mr. Krakauer left there—before he left he did not have the room, I guess you would call it. The heat was on. Everybody just booked quietly, not with an open room. We had an office—which I did—and the elevator would ring for me and they would meet me at the desk.

Q. When was the occasion that you would call it, that the heat was on, what year was that?

A. That was the early part of 1943.

Q. Early in 1943? The heat then stayed on, as I understand it?

A. Oh, yes.

Q. Now, let's go back to the beginning. We have gone to the end there. I will ask you one further question with reference to the end of the period, and we will go back to the beginning and get the details.

What were the circumstances of the termination of the employment of Mr. Krakauer? Is that too formal a question for you? Do you understand what I mean?

A. No, I know what you mean.

Q. Tell us how Mr. Krakauer left there.

A. Well, it was in September of 1943 and we



(Testimony of Julius Wild.)

were playing pinochle, the boys and I, which I always did during business—there was no business, only the telephone rang, and some of the boys sitting at the desk answered, and we had our lunch—I furnished the lunch. So Mr. Krakauer was attending to the business and I had Jack Snell working there at the desk.

Q. Who? A. Jack Snell.

Q. Go ahead.

A. And Mr. Krakauer—we carried some money from day to day, and there was no bookkeeping. There was no cause to keep books, as we just went from day to day.

I gave the boys half salary if I would lose, and full salary if I made money, which you can not make any money that way.

In any event, that night he said, “We got \$600 over there, Jules,”—which was the last day of the week. Ordinarily we start with about \$200, and that was about all—the whole week’s accumulation. It might have been Friday. Anyway, I said—one thing, he would give me a little slip and that was the money and he would go to put it in some book or something, but—I don’t know what made me do it, but I went over and counted it, and I said, “Why, you kind of gave me a short count.” In other words, there was \$800 over.

Q. There was \$800 over? [418]

A. In other words, there was \$200 difference. He reported this to me, and there was \$800 over.

So he counted, and he counted \$800, and he said,



(Testimony of Julius Wild.)

“Ain’t a fellow liable to make a mistake?”

I said, “Not exactly, the man that you are, you are not making no \$200 mistake,” and I said, “This ain’t the first time,” I said, “I found that out. I am not as dumb as you try to make me believe,” and I said, “From now on you and I are through. You can keep your keys, and you can take everything that you got out, when you get good and ready. You can come here when business is over, but you are not working for me any more.” [419]

He said, “I will get even with you,” and that was the end of that. and he pointed his finger at me.

Q. This was what day?

A. This was in September, 1943. I don’t know the exact date.

Q. In September, 1943, is that right?

A. Yes.

Q. And he left there after that. Did he come back?

A. If he came back—he had the key, but he did not get any more salary.

Q. Did you see him in and around the place after that?      A. I saw him on the street.

Q. Were you friendly after that?

A. I had no hard feelings, only I did not want him to work for me anymore. That was the only time I was able to say that, because I was in his debt all the time he worked for me.

Q. Had you noticed any shortages around there, during the period that he was with you before, and explain what they were.

(Testimony of Julius Wild.)

A. It happened so often, it was pitiful. I used to go there after he went home at night, and find them shortages. I would work until six o'clock in the morning, and I would get no place. I would count the other boys' business, and I would count his business, and he would have \$400, and the other boys had \$600 in there. In other words, the other boys done 3 to 2 the work that he done— $\frac{2}{3}$  more than he done. [420]

Q. You speak of the shortage. This was an overage of \$200. this last incident?

A. I know. It was not an overage, this last incident. It was an overage on him reporting \$600. His card showed \$600 and my money was \$800.

Q. Would that be a loss for you?

A. If I had let it go, he would have got the other \$200.

Q. All right, with reference to the way any books were kept in there, these cards that have been introduced in evidence here, so the ladies and gentlemen of the jury will understand it, how would it run or how was it run?

A. My bookkeeping?

Q. Yes.

A. When Mr. Krakauer put his card system in—

Q. You refer to Exhibits 7, 8, and 9—

A. Yes, when Mr. Krakauer came to work for me, we had a system, Bob and I, and I was the—

Q. By Bob you mean who?

A. Bob Hughes, and Clarence Collard.

(Testimony of Julius Wild.)

Mr. Campbell: I suggest that the answers will be confined to the question, your Honor.

Mr. Belli: Will you continued?

Mr. Campbell: May I have the time and place?

Mr. Belli: Q. What was it, what bookkeeping system?

A. The bookkeeping system was—well, I guess about six or [421] seven or eight months after he was there—or I would say six months—

Q. He went there when?

A. When I came back from Winnipeg, he was there.

Q. What year was it? A. 1936.

Q. All right, then he put in this card system himself in 1936, is that correct?

A. He showed me, it was improvement.

Q. What did you do?

A. Well I said, "If you can find any improvements, Julius, you go to it."

Q. His name was Julius too? A. Yes.

Q. You put in your system of bookkeeping that was down there, after he installed his cards here?

A. He had two or three other books full that he kept.

Q. All right, did you keep any books?

A. I had my little book over there in my desk. I always had.

Q. What book was that?

A. Well it was a kind of—it was what you call a ledger, it was six by eight, it was a black book—you can call it that if you want to. Burkett got

(Testimony of Julius Wild.)

a copy of one of them and I could not exactly tell you about it, but to my knowledge it was a black book. [422]

Mr. Belli: May I make a request for any books or ledgers, the Government has that were taken from Mr. Wild—ledgers, sheets, or cards, or anything like that?

(Off record discussion between counsel.)

Mr. Campbell: The record will show that there has been produced here a tan covered book—a bound book, and it is represented to me that that is the only record in the possession of the Government.

Mr. Belli: You don't have any scratch sheets or anything like that?

Mr. Campbell: This is the only record.

Mr. Belli: That is the only record, document, scratch sheet, or anything else—or writing—from the place?

Mr. Campbell: That book is the only thing we have possession of.

Mr. Belli: Q. Julius, do you know what this is? Have you seen that? I show you a book, buff-colored.

A. Yes, this is Bob Callahan's book. He would have to check the record. I had a copy of this book. They are 3 for \$1.00. They were this color or black, and I kept one of these, and these books were in my private desk—unless I went to Caliente, or something, to put in anything else that I did there, lost or gained, and I would bring it back.

(Testimony of Julius Wild.)

Q. When was the last time you saw this book, and by this book I refer to the next exhibit I will offer in evidence? [423]

A. The last time I saw that book?

Q. Yes.

A. The last time I saw that book that you have was at Mr. Burkett's office.

Q. Before that, when was the last time you saw it in or about your premises or with any of your employees? A. That book?

Q. Yes.

A. Well, after the heat was on there was no salary stuff and there was no need for Mr. Callahan keeping the book. I just got a copy of that book, my other book. That is just a sample of my book.

Q. This book indicates the salaries paid and the Social Security?

A. That's right, that is for Social Security.

Q. You paid regular Social Security, did you, on all of the employees? A. Yes.

Mr. Belli: Defendant's Exhibit next in order, into evidence, if your Honor please.

The Court: It may be marked in evidence.

(Thereupon the above mentioned book was received in evidence and marked as Defendant Exhibit L.)

Mr. Belli: Q. This other book that you kept, that you referred to, a black book or whatever it was, could you tell [424] the ladies and gentlemen of the jury a little bit more about it—the necessity



(Testimony of Julius Wild.)

of it, how it was kept? Give us a little bit on that.

Mr. Campbell: I object to the question in that form, "the necessity of it", he can describe the book but I think the foundation should be laid as to the time the record refers to. The question is general, and also calls for an exposition.

The Court: You should reframe the question, counsel.

Mr. Belli: I will.

Q. You kept this book that has been referred to here as a "black book", did you?

A. Yes, sir.

Q. You kept it yourself                      A. Yes, sir.

Q. In your own handwriting?                      A. Yes, sir.

Q. When did you start keeping that book, do you remember about what year?

A. When I kept that. I had a book like that every year in my business.

Q. Who wrote in that book?

A. In that book, Bob— If I did it, he put it down, but when Krakauer came there—I was the only one that wrote in that book. I was the only one that put the receipts and losses and gains in it, to my knowledge. [425]

Q. How did that book differ from these cards, over the period of 1941, '42 and 1943, if it did differ?

A. At the room place, and in the desk, I had a recap sheet, and I had a run-down sheet. Mr. Burkett has run-down sheet, and he has got the last day's recap sheet there.



(Testimony of Julius Wild.)

Mr. Campbell: I ask that the last be stricken, if the Court please, and the jury instructed to disregard the statement as to what Mr. Burkett has.

Mr. Belli: I will stipulate that it be stricken and ask the direct question.

The Court: Q. Has Mr. Burkett anything of that character?

(Off-the-record discussion between counsel.)

The Court: We are talking, gentlemen, at cross purposes, perhaps. The jurors are entitled to correlate this evidence, and they are entitled to know precisely what this gentleman has in mind when he refers to a black book or a run-down sheet.

Some of these sheets referred to have particular significance in racetrack parlance. These people are not racetrack technicians, so let's have definitions as we go along.

A run-down sheet has a particular significance in racetrack parlance—

Mr. Campbell: I will represent to the Court, your Honor, that the Government has none of these matters. [426]

The Court: The Government has none of the records referred to?

Mr. Campbell: None of the defendant's records other than those which have been produced here.

The Court: All right, we will accept the statement.

Mr. Belli: Q. When is the last time you saw the run-down sheet that you referred to?

(Testimony of Julius Wild.)

A. Mr. Burkett showed it to me when he showed me the recap.

Q. When was this? Take it a little slower. Remember the horse, and you won't be so talkative.

With reference to this run-down sheet, you say Mr. Burkett had it. Maybe we can get it straightened out, and know what we are talking about. When is the last time you saw it, with Mr. Burkett in the place?

A. When Mr. Fickheimer and Mr. Rogers called me up there at the Federal Building, I think on the tenth or eleventh floor, 1012 or 1110, in that room there.

Q. Do you remember what date it was?

A. No, I don't.

Q. What month was it, and what year?

A. It was in 1946. I would say it was just before—some of our relatives come for the Fourth of July, so it was the last Thursday or Friday in June of 1946.

Q. Of 1946?

A. No—yes, 1946, that is the year. [427]

Q. You say there was one run-down sheet or more than one?

A. Just one.

Q. Were there any other records there then?

A. A recap with some of my writing in it, and I showed him—I said, "This is not Snell's, this is my writing."

He told me to identify the writing. On this run-down sheet there was some bets and I said, "I think I have taken that bet myself."

(Testimony of Julius Wild.)

Mr. Campbell: Could I ask a question, your Honor? I think the matter should be cleared up.

The Court: Yes, I think so.

Mr. Campbell: Q. At the time you went to the Intelligence Unit office that you have described, you were shown certain records, were you not, which had been obtained from the San Francisco Police Department, and which had been previously taken from your place?

A. I am pretty sure they had taken them out when they were taken—I am not sure the Police Department had taken them, because I was told by somebody at that time there to get out of the place.

Q. But at that time the records you refer to were taken? A. Yes, sir.

Q. At the time these were shown to you, somebody told you these were records that had been borrowed from the Police Department? [428]

A. I asked him where he got them records from. I said, "Them is my records," and I asked him where he got them from. I said they were down there at the police raid and I am not sure whether I asked Mr. Burkett or not where he got them from because I knew——

Mr. Campbell: I will represent to the Court that the records in question have been restored to the county authorities and are in their possession.

Mr. Belli: Q. In any event, those records were there in the possession of Mr. Burkett, Mr. Rogers

(Testimony of Julius Wild.)

and Mr. Fickheimer, when you were examined, is that right?      A. Yes, sir.

Q. Let's go back to the system of bookkeeping and my rather laborious question to you, which I now reframe, and that is:

You kept this other system of books yourself, or rather, you kept a black book yourself, is that right?      A. I did.

Q. All right, and the last time you saw that black book was when?

A. Well, when I went down to look for an entry in it and I made some entry in it, and that was when the heat was on, and it still may have been in there when he was here. I think that was a day or two before he left, but it may have disappeared. I am not sure whether it disappeared before or after.

Mr. Campbell: I ask that the answer be stricken as not [429] responsive, and that the jury be instructed to disregard the conclusion of the witness.

The Court: The answer is stricken. The jury is instructed to disregard it.

Mr. Belli: Your Honor, just briefly may I be heard? I think the answer is responsive.

The Court: I think, Mr. Witness—may I question him?

Mr. Belli: Yes, Your Honor.

The Court: Q. You state you had the book in your desk?      A. Yes.

Q. Where in your desk?

(Testimony of Julius Wild.)

A. It was about—in the bottom drawer, on the right hand.

Q. And when, to the best of your recollection, did you last see the black book in your desk?

A. When the raid was on, when I went down there, everything was gone—after the raid, everything was gone.

Q. After the raid everything was gone?

A. That is when I looked for that book, and I tried high and low to find it, and it was not there.

The Court: All right. Now, may we have the date?

Mr. Campbell: We don't have the time of the reported raid. There has been evidence here that there were a number of raids during the period. I don't know.

Mr. Belli: We will ask about it, so we will have it in the record, but also may I ask how many raids were there while [430] you were there?

A. To my knowledge there must have been twenty in them three years, between twelve—they come pretty often. I would say every two months or so.

Q. With reference to the raids, which raid was it, in point of time, that you fixed in answer to His Honor's question, as the time after which you did not see the black book? Do you remember the month or the year?

A. No, I don't.

Q. Well, how long was it before or after Mr. Krakauer's leaving?

A. Well, that book was there—when the heat



(Testimony of Julius Wild.)

was on it was there. I had no use for it, because I had everything down—there was no profit at all, it was all a total loss, and I did not have no need for the book. When I did look for it, it was gone.

Q. Let's go back to the question again: When **was it that you did** look for it, with reference to the time that Mr. Krakauer left? Was it before or after, or about then or when, so we can get, if possible, some month and some year as to the last time that you saw the book there, that you have a recollection of seeing it there?

A. It is hard for me to answer that, because I really don't know when I did look for that book. I could not tell the date.

Q. Did you give Mr. Krakauer access to that book? [431]

A. Mr. Krakauer had access to everything.

Q. Did Mr. Krakauer himself write in that book? A. No, not to my knowledge.

Q. All right. Let's see if we can get this: Did that book have any of the figures in it that are on these cards here, Exhibit 8, 7 and 9?

A. That book had the results, official, of the weekly cards that he gave me.

Q. Did that book have that record of the play in the other room, in it?

A. That was the most important part of it. We had that other play in there, and that is when I deducted this business from that business.

Q. Without going into elaborate detail, let's go into this other business. Do all bookies have two



(Testimony of Julius Wild.)

rooms or two types of business, one over the counter, and another one in a little bit more formal surroundings?

Mr. Campbell: Object to that as incompetent, irrelevant and immaterial.

The Court: Sustained.

Mr. Belli: Q. With reference to your bookie business, you booked people who came in over the counter and you had business from other runners, and brokerage houses with their runners, didn't you? A. Every day. [432]

Q. Can you tell the ladies and gentlemen of the jury, in your own language, how this runner business and your telephone business operated, in your booking establishment?

A. Yes. When that business started in the morning you put up your prices on your run-down sheet, where it says, "Start, Place and Show."

Q. Take it a little easy. When you are talking about run-down sheets, what is a run down sheet?

A. The run-down sheet has the horse's name on it, and his name, and in front of that it says, "Start, Place and Show." Then I would have the runner on the street, and when the prices had settled, he phoned them in to me, the street prices that the bookie had put on it.

Q. How would the runner on the street determine how the price was settled?

A. When the Dixon Club or the big clubs would put it up, that would be the rate card for all of them.

(Testimony of Julius Wild.)

Q. Then you would conclude that the prices were settled for that day, and you would put that down on the run-down sheet? A. Yes.

Q. That would be something like marking on the board at the Stock Exchange what today's prices are?

A. The same. The only thing is, one is for small operators and the other is for big, and in the long run they break you.

Q. By the way, while we are on that, the witness that we put [433] on this morning, Mr. Sammut, did you know him?

A. I done business with him every day.

Q. What is his nickname?

A. His name is Artichoke Joe.

Q. How long had you known him, the man who said he had never seen you before?

A. Only 17 years.

Q. We have got the odds fixed for the day on the run-down sheet. Then what happens after that?

A. After that, then your runners—every book as a runner, the same as the Stock Exchange, every book has a runner.

Then if there was a commission waiting to be bet on a horse at the price——

Q. What do you mean?

A. There might be \$500 or \$1000 at the Dixon Club, or \$500 or \$1000 at any of those clubs.

Q. You mean a syndicate or a pool?

A. No, that would be sent from Chicago, or maybe from Reno. That would be waiting to be set at the price.

(Testimony of Julius Wild.)

Now, the runner would come in and say, "Julius, can you stand \$20 on that horse at ten to one," and I would say, "Which one is it," and he would tell me, "The second horse, No. 64."

That is just a sample. I would say, "Wait a minute," and I would go on my racing form and—I made my own prices, too—put the prices down, and if I had that horse at 15 to 1, I [434] would say, "Brother, you are on."

Q. Julius, can you tell us how you lost in the room, if you are a pretty good price maker?

Mr. Campbell: That is objected to as assuming a fact not in evidence.

Mr. Belli: We will ask it this way:

Q. Did you lose in the room?

A. You had to lose in the room because I gambled with some of it and I bet every day of my life.

Q. How could you lose, then, in the room if you were a good handicapper and price maker?

Mr. Campbell: Object to that as argumentative.

The Court: Overruled.

A. You can not book and bet and beat the races.

Q. Is that what you attribute your losses in the room solely to, or was there any other reason?

A. There was a tremendous lot of leakage in our room.

Q. How do you mean that?

A. Shortages that I never could get.

Q. Did you do a bigger volume business, in the

(Testimony of Julius Wild.)

room only, you and Bob Hughes, than you did in the room when Mr. Krakauer was there?

A. Some days it would be bigger, but on the average my pad was always a bigger business. The layouts was on the—the runners' money was on there. I would get that out of the other [435] book, so I would take the fall.

The other book I wanted to be a conservative and steady thing because I had a line that you could make your salary and living out of, without going to the other one.

Q. Can you tell us anything more about the book on the inside room in which you were in?

After you would take the bets there, of course then you would wait and get the results of the races, is that right?

A. Well, that is natural, but in the meantime I might send Bob or Rosie or whoever was around, out to see if he could not get it for me, too.

If I only had that horse six to one, I refused to bet. Then if I could get ten to one, I would give him five or ten and say, "Go out and get me a bet down on the horse."

I would want that to work on in my room. In other words, I wanted that for a foundation.

Q. Well, you do no other betting than that, or no other rejection than that?

A. Well, I would bet.

Q. Where would you bet yourself?

A. Everywhere. I had credit everywhere—Artichoke Joe and every place.

(Testimony of Julius Wild.)

Q. Is that where you placed most of your bets, with Mr. Sammut, who did not know you?

A. No, not all of them. [436]

Q. At any event, when you came to the end of the day, you would pay off or you would win, is that it?

A. Well, win or lose; I would win or lose.

Q. What would you do at the end of the day? How would these people be paid? Would they be paid that night or the next day or how?

A. They would be paid from race to race. You mean the runners?

Q. The runners.

A. Most of them would come back. Half of them would come back that afternoon, if they had another play for the afternoon track, and half of them, if they did not have another play, would come back in the morning first thing.

Q. Did you keep a bank account in the Wells Fargo or American Trust, and pay off in cashier's checks or certified checks, or how do you pay?

A. No, it would be mostly all cash.

Q. Where would you keep the cash?

A. In my pocket. I always kept \$1200 or \$1500, but it fluctuated, just like any business did. It all depended on how it was going.

Q. Do you know the custom amongst bookies with reference to paying, whether they all paid by cash or check or how? Yow can answer that yes or no.

Mr. Campbell: Just a minute. Object to that as incompetent, irrelevant and immaterial. [437]



(Testimony of Julius Wild.)

The Court: The objection is sustained. I presume it goes without argument that all these transactions were always cash. You are not disputing that, are you, counsel?

Mr. Campbell: No, it is simply the line or the custom.

Mr. Belli: That takes us through a busy day at the bookie establishment, from the time that you make the morning odds, on up until the payoff at the end of the day, is that right?

A. That's true.

Q. Then at the end of the day you figure up in the black book how much you had won or lost in each of the rooms, and computed it?

A. I did.

Q. Now, with reference to the black book itself, do you recall someone coming from the Government and asking you for some records to substantiate your returns?

A. Yes, I do.

Q. Mr. Callahan made your returns, didn't he?

A. For some years, yes.

Q. When you had the black book, you did not take it to the Government, did you?

A. I did not.

Q. Why didn't you take it to the Government?

A. Well, I will tell you why I didn't; there was a lot of personal things in there. There was Charlie Howard's private [438] telephone and Bing Crosby's private telephone——

Mr. Belli: Don't mention any names. If you can give a reason—you are not asked for names.



(Testimony of Julius Wild.)

A. This is all personal. The reason I done that was, that when they run a horse, or anything that I liked, I would phone them or wire them to have a bet on it, which is done quite often, not for no gain or anything, just for friendship.

Q. Do you recall the incident of Mr. Krakauer preparing twelve cards that were taken by the Government? A. I do.

Q. Tell us all about that.

A. Well, Mr. Lippert, if he was here,—I was not so sure that the man was on the stand—when he came, he said, “I want a better record that I can work on. I want it down in my office tomorrow.”

So I said, “Krakauer, this man is from the Government office,” when he left, and I said, “He wants a better system—he wants a better system out of it than I can give him.” So I said, “I will give him my book and if he has to have—you know, a division by the months or so, he would have to copy it out of my books.”

Q. Did Mr. Callahan prepare any cards or give any figures to Mr. Krakauer?

A. He was not even there. I left it under his choice how to do it. He was not even there. [439]

Q. Where did Mr. Krakauer get the figures to put on the 12 cards?

A. He might have gotten some of them out of his cards. When I went upstairs I had my supper, and I came on back, and the next day Mr. Krakauer had the tickets all made for me, and the next day Callahan went down.

(Testimony of Julius Wild.)

Q. They were in Mr. Krakauer's handwriting?

A. Every bit of it.

Q. And they were brought up to the Government, is that right?

A. That's right, to Mr. Lippert's office.

Q. When was the last time you saw those twelve cards?

A. I don't think I ever saw them until I went up to Mr. Lippert's office.

Q. And did anything appear in Dr. Shornick's account, win or lose, in any cards like this?

A. No, not in that, but when I looked at those tickets, there is a lot of those tickets that don't belong in there. There is a lot of Krakauer's personal affairs in there, and I pointed them out to Burkett. I said, "This ticket don't belong to me, and this one don't belong to my business."

Q. Will you, during the noon recess, go through 7, 8 and 9, and try and find that which you refer to that you say are Krakauer's personal cards and don't belong in here? Will you do that?

A. I will. [440]

Q. Coming back now to Dr. Shornick, will you tell us how the account was established, whether you won or lost or what happened?

A. Well, Dr. Shornick came here and he says, "I will leave you \$2,000 or \$2500 deposit."

This was after one of the big races down at Santa Anita, and I really needed cash, so I thought to myself, "I will take this fellow on," after he showed me the system, what he wanted, you know, and

(Testimony of Julius Wild.)

figuring on that \$2500, that I did not have to pay him until the end of the month, as we decided on settling every once a week or once a month.

So at that time I really needed the cash to operate, so we were taking him on.

So he gave Mr. Krakauer his name and address. So his bets were all \$200 flat bets on horses, 6 to 5 or less, to place, no matter where they raced, on any racetrack, and we had a special chart in the daily racing form.

Q. Did Mr. Krakauer keep Dr. Shornick's account?      A. He certainly did.

Q. Did he play Dr. Shornick's system, if you know?      A. That I am not sure.

Q. By the way, did Mr. Krakauer bet, to your knowledge, in the establishment or out of it?

Mr. Campbell: May I have that question repeated?

(Question read by the Reporter.) [441]

The Witness: I begged all my boys not to bet, every one of them.

Mr. Campbell: I ask that that be stricken as not responsive.

The Court: Motion granted.

Mr. Belli: Q. Did Mr. Krakauer bet, to your knowledge?

A. Every day of his life, when he was in my book.

Mr. Belli: All right. May we take the recess, Your Honor?

(Whereupon after the admonition to the jury by the Court, an adjournment was taken until 2:00 o'clock p.m. of the same day.) [442]

Afternoon Session, August 17, 1948, 2:00 p.m.

The Court: The jurors are present. You may proceed, gentlemen.

### JULIUS WILD

recalled; previously sworn.

#### Direct Examination (Resumed)

Mr. Belli: Q. Mr. Wild, there is one thing I overlooked here with reference to Mr. Sammut, or Artichoke Joe, as you prefer: Do you owe him any money at the present time?

A. I owe him one thousand dollars.

Q. That dates from when?

A. That dates to about 1942. Well, I would say either 1942——

The Court: Pardon me, Mr. Belli, he is the gentleman you referred to——?

Mr. Belli: The first witness this morning.

The Court: The first witness this morning, yes.

The Witness: Yes.

The Court: Q. He said he did not know you, and had never met you, nor had ever seen you.

A. Yes.

Q. And he looked right at you?

A. He wouldn't look at me.

Q. You owe that man a thousand dollars? [443]

A. I do.

(Testimony of Julius Wild.)

Mr. Belli: I think we will have some substantiation of that, your Honor.

Q. With reference to security, what did you give him for security on that, Mr. Wild?

A. I gave him either the ring and the watch or the ring alone.

Q. And when did you get them back, or did you get them back?

A. I don't know, he called me up and says, "Come down and get your stuff. I am in a jam." I said, "I ain't got the money." He says, "Pay me when you can."

Q. I think we went into a little of this Dr. Shornick matter, or we started to before the recess, but we can go through that rather briefly: Did you handle the account, yourself, or who handled it, Julius?

A. Mr. Krakauer.

Q. And do you know how much was lost or won on Dr. Shornick?

A. Well, we lost about, between three and four thousand.

Q. The diamond ring: Did you have a diamond ring or any diamond you purchased during the period 1941 to '43 inclusive?

Mr. Campbell: I object to that question in that form.

Mr. Belli: Withdraw it.

Q. Did you buy any diamonds, Julius, between '41 and '43, inclusive?

A. It is hard to say whether I bought them. I took them for security on bets and when they



(Testimony of Julius Wild.)

couldn't redeem them or says, [444] "Julius, I can't go no farther," if you call that buying, that is all right.

Q. Well, did you get any diamond in 1941, '42, or '43?

A. I pretty near got diamonds in every year of my booking business.

Q. Between '41 and '43, or did you end up at the end of 1943 with or without diamonds?

A. I think I bought one in between.

Q. What kind of a diamond?

A. I would say it would be about 2 karat.

Q. How much would that be worth?

Mr. Campbell: That's objected to. Its worth is what he paid for it.

Mr. Belli: Q. What did you pay for it? That is fair enough.

A. I think I paid eight hundred, and I borrowed that much on it, so that is one time.

Q. All right, any others besides that one?

A. And I haven't redeemed that.

Q. Where is that?

A. At Maxferd's, or it was.

Q. When you came out here with your wife in the early years did you have some diamonds?

A. I am pretty sure I had three uncut stones. They were diamonds.

Q. What was the origin of those? [445]

Mr. Campbell: Objected to as immaterial. It is too remote.

The Court: It is remote, but I will allow it.



(Testimony of Julius Wild.)

Mr. Belli: Q. Where did you get those? Did you buy them, or were they given to you, or what?

A. I was paid off in diamonds from agents of the Mexican Revolutions. They hatched all the Mexican revolutions in my backyard, or back bar, in a private room, and paid the Government for their horses and mules in gold, and I acted as agent, and if they had no money they would give me a diamond stone for delivering the money.

Q. Did you have those in 1941?

A. No, I had those when I came out here.

Q. Did you have them in 1941, or by 1941?

A. Well, that is hard to answer, Mr. Belli—I don't remember.

Q. Did you have them in 1942 or 1943?

A. I did have one of them and Mrs. Wild, I gave her one of them, and the other one I sold, but I have had a lot of them in between times.

Q. You were going into this this morning, and there may be some confusion on this: You told me this morning on these cards, and you have had a chance to look over them, the Exhibits 9, 8 and 7, and you told us something this morning with reference to these, that there were some cards in here that were not your cards. [446]

A. Not pertaining to my business.

Q. Did you look through here in the noon recess to see if you could find them? A. I did.

Q. Are they in here? A. No.

Q. When was the last time that you saw those cards in there?

(Testimony of Julius Wild.)

A. Well, Mr. Burkett and Mr. Fickheimer and Mr. Rogers—I picked them out, about half a dozen, and I said, “This is some of Krakauer’s business. It might have been his bets, and he forgot to take them;” but it was not very important—but it was important that they were not mine.

Q. They were Mr. Krakauer’s that were in with these? A. Yes.

Q. And those are not in there now?

A. No.

Q. Those are not in the computation?

A. They are not there.

Q. With reference to the income tax returns, the exhibits here for 1941, ’42 and ’43, you signed those returns, did you, Mr. Wild? A. I did.

Q. And when you went up to the Government, then, you went with Mr. Callahan, did you, with the twelve cards that were supposed to be the 1941 amount of profit and loss? [447]

A. I don’t know what year it was, but I went up with the cards. I went with Mr. Callahan and Mr. Callahan had the cards. Krahauer turned them over to him.

Q. Then you also had when you went up there, or Mr. Callahan also had these yellow work sheets when he went up there?

Mr. Campbell: So there will be no misunderstanding, Mr. Belli, those refer to 1942 and 1943, and not to 1941.

Mr. Belli: Yes, the cards refer to 1941 and the sheets refer to ’42 and ’43.

(Testimony of Julius Wild.)

Q. All of these things you had when you went up to the Government?

A. That's right, with him. He had these cards, and I think he had his book with him, that Social Security book. Well, I really can't remember what else he had.

Q. Julius, at this time, or any time, did you attempt to or intend to cheat the Government, or attempt to evade the payment of any income taxes?

A. I did not.

Q. With reference to the expenses going down to Tijuana, and that I think we have covered, but just to be sure, did you keep those expenses in the black book or keep a total or estimates?

A. Well, some were and some were not. I was not so exact with that.

Q. Now, here is our Exhibit F for Identification indicating United Air Line Transportation, apparently to San Diego. Would [448] this refresh your memory as to the number of trips you took in 1941 and '42, or could you tell us without looking at this how many times you went down in '41 and '42?

A. Well, you see, I was supposed to be there every Sunday. My duty was there every Sunday. I was in partners with the Association. We were fifty-fifty and I was supposed to have a deposit up of five thousand, and I didn't have to have it, and they just okayed me. Judge Schilling and Walter Mori says, "Okay, Julius. If you fall back or behind we will draw on you." So you see those

(Testimony of Julius Wild.)

checks. So when the weather was bad or anything and I possibly couldn't make it, I would let "Green Tie" run my book. He was my clerk on the stand with me. He was the one that put up the chalk prices, the even money, the six to two, and five to two——

Q. Julius, you have done everything but answer the question.

A. I was trying to tell you when the weather was all right and I could make it and get transportation I would go down, and that was very often.

Q. Could you tell us what "very often" is? How many times, or do you have any idea how many times you went down?

Mr. Campbell: I have no objection to your showing him this, if he says he went on each occasion.

Mr. Belli: All right.

Q. Does this give you a pretty good idea of how many occasions you went down there? Did you go more than that or less than that? [449]

A. Well, this looks like about 25 weeks. As a rough guess, I assure you I went down there that many times because I would go down to Belmont when I couldn't make that, and I would go down.

Q. How would you go down?

A. By plane, and if there were two or three that wanted to go it was pro-rated, and if there was only me they would charge me \$75 or \$80 if they had air express to take down.

Q. Did you go down with Bob Hughes many times?

(Testimony of Julius Wild.)

A. I went down with Bob Hughes many times when the planes were grounded when I would ask him to drive me down.

Q. Julius, so we may have this for the record, you have a natural tremor there of shaking your hand. How long have you had that?

A. Ever since I quit riding the races. I have had all my bones, pretty near, broke, but they have healed up, naturally.

Q. How about your horses: In 1941, '42 and '43 did you have any horses during those years?

A. I had Silent Julie and his mother.

Mr. Campbell: What was that?

Mr. Belli: He said he had Silent Julie and his mother.

The Witness: And I got her from Mrs. Isabelle Dobbs Sloan.

Q. Did you buy any horses from Mr. Crosby during that period of time?

A. Yes, during '41 or '42 or '43 I bought a two-year old. [450] That was in 1941 I bought the two-year-old off of him, named after a town in Washington. I will think of the name in a minute or second. The name was Wenatchee; and before that I had Skookum Chuck. She was a success, but Wenatchee was washed out. I asked him how much he wanted for Wenatchee, running at Santa Anita, and I saw the horse had possibilities and I says, "Bing, how much do you want for that?" [450-a]

Mr. Campbell: I object to all of this, if the



(Testimony of Julius Wild.)

Court please. I submit this is not in response to any question.

Mr. Belli: I assume the best way is to let him run along and then we can get the answer somewhere.

The Court: I have no objection to him continuing.

The Witness (Continuing): I says, "Bing, how much do you want for this horse?", and he put up two fingers there, and that is two thousand dollar bills to him.

Mr. Campbell: Let the record show the witness put two fingers up to his cheek.

The Witness: Yes. And he took his pipe out of his mouth and that is what he done. But this horse broke down for me, and for a year he was just a total expense. So when I saw Lindsay Howard, he says, "We will replace that horse for you," and usually, if you are a good horseman, you will do that.

Mr. Belli: Q. Julius, you are going to have us all horse breeders.

A. I am just trying to explain my case.

Q. If you will wait a moment, I will try and slip in a question. There was an exhibit here some place which said you had given up your horses. Here is a letter saying you had given up the horses in 1941. Did you read that?

A. Yes, I read that.

Q. Tell us what that is.

(Testimony of Julius Wild.)

A. This is on account of Mr. Fitzgerald and I, we were in [451] partners.

Q. And Mr. Fitzgerald was the trainer?

A. He was the trainer, and a man I galloped horses for when I was a kid. So the Social Security question came up and I said, "You take over the horses and put it on your list." That is the only reason I done this. In other words, when he would run short of money, he would still send for some money and I still had interest.

Q. That may be clear to you, but it still is not to me. Do you have the horses?

A. Yes, I had half interest in them.

Q. Which horses?           A. Silent Julie.

Q. And what other horses?

A. That is all. I didn't have Wenatchee. He was already broke down. And I had his mother on the farm here at Norman Church's in Santa Clara—San Jose.

Q. With reference to the winter book, Julius, and I don't want you to educate us to the point that we understand all of the details of the racing or the booking business, but just give us a fair run-over here of what you mean by this winter book and what you did, and if you lost or if you won, and will you be as specific as you can on dates, places and so forth—and I am only concerned with the years 1941 to '43.

A. In my time I always had a future book on the Kentucky [452] Derby—no, I mean the Santa Anita

(Testimony of Julius Wild.)

Handicap; not the Santa Anita Derby, but the Santa Anita Handicap.

Q. What does that mean?

A. That means you pay or play. In other words, you give them inviting odds. They pay if they run; but if the horse is scratched, you lose your money. If he does not run, you lose.

Q. You mean if the money was put up with you and the horse didn't run the bettor would lose that much?

A. Yes, the bettor took those chances. It says right on the winter book, it says, "Pay or play." That is what winter book or any future book means.

Q. How about any winter books you had as to whether you lost or won anything on them?

A. You can't beat a winter book. The only thing a winter book does is make for a lot of players to come down. It is good business; it is good advertising. It creates interest and people that only bet once a year or so will come down and make the winter book bet on account of the attractive odds **because they are advertised** in all the papers—"the future book," it says. Then when they come to your place and if they make the bet, they look at your odds and they might make another bet or two. And after the winter book, if he wins he collects, and if he loses you might not see him again until for another winter book—no, not winter book, but a future book.

Q. Julius, tell us if there were any banks or safe deposit [453] boxes or any places where we could

(Testimony of Julius Wild.)

check, or where there would be any record if you had any accounts in '41, '42 and '43, inclusive.

A. The only bank that I dealt with, to my knowledge, in 1941, '42 and '43 was right at this bank in the Whitcomb Hotel, the American Trust.

Q. What was the highest amount of the balance in those years?

A. The highest amount of the balance? It is hard for me to tell you.

Mr. Belli: Do you gentlemen have a witness on that?

Mr. Campbell: I think the records are here.

Mr. Belli: Well, we will have that then and we won't have to guess on that.

Q. About the loans at Maxferd's and the Morris Plan, with reference to the Morris Plan and Maxferd's, did the witnesses that were here and the records they left bespeak the fact of the amounts of loans you had there?

Mr. Campbell: I object to that. They are the best evidence.

Mr. Belli: Well, that is objectionable.

The Court: Objection sustained.

Mr. Belli: There is one witness we call back on the record and I can show it to counsel. I think we might clear it up now.

You may cross examine. [454]

Cross Examination

Mr. Campbell: Q. Mr. Wild, you have been in this horse race business for how long?

(Testimony of Julius Wild.)

A. Since I was 13 years old—some 48 years.

Q. 48 years? A. Yes, sir.

Q. When did you open up your place of business there below the Orpheum at 1182 Market Street?

A. Well, I was there two or three times. I moved out and moved in again.

Q. Were you there throughout the time 1941, '2, and '3? A. Yes, sir.

Q. And you continued to operate, did you not, until approximately September of 1944, when the big raid you referred to took place, is that right?

A. What do you mean by the big raid?

Q. Well, you continued to operate until September, 1944, did you not? A. That's right.

Q. And it was at that time in the raid you referred to that certain of the records were taken, is that right, at that time? A. Yes, sir.

Q. That was in September of 1944?

A. Yes, sir.

Q. That was the occasion when one of your employees was arrested [455] or taken in custody, Mr. Snell? A. Yes, sir.

Q. So that after Krakauer left in September of 1943 you continued to operate your place of business for October, November and December of 1943, is that right?

A. I am pretty sure that's right.

Q. Now, in order that we may understand your layout there, and there has been some description here of a front room and a back room. Actually,



(Testimony of Julius Wild.)

the so-called front room opened directly into the back room, did it not, without a door intervening? There was an archway between the two places, is that right?      A. That's right.

Q. And how wide was that archway?

A. I don't know how wide that archway was.

Q. As a matter of fact, more than half the space between the two walls was taken up by that archway, wasn't it?

A. No, I think about one-third.

Q. About a third?

A. The hatchway was about one-third the size from the right, and they were about one-third—there were three-thirds, and the hatchway was one-third.

Q. About one-third of the width of the room was taken up with a hatchway?

A. It is just like those three panels. The hatchway was in [456] the center and there was the same amount of space on each side.

Q. Just like the three panels in the back of the courtroom?      A. That's right, yes.

Q. How far was it from the counter? You had a counter in the front room, did you not?

A. Yes.

Q. That was across the width of the room?

A. Yes.

Q. That is where the people who were accepting the bets, the clerks, cashiers and so on were? They were behind that counter, weren't they?

A. Yes.

(Testimony of Julius Wild.)

Q. Now, how far was it from this counter to the partition of which the archway was a part?

A. A hop, skip and a jump, about ten or twelve feet.

Q. About ten or twelve feet?

A. That's all.

Q. Your desk was immediately, or right at this archway, was it not?

A. No, Mr. Krakauer's desk was at the archway. My desk was when you hit the first panel. The first panel came, and then the archway. I was right up against the first panel.

Q. You were right up against the first panel?

A. Yes, because there was a door that opened in the back that led right in to my desk. [457]

Q. So your desk was about twelve feet from the counter, is that right?

A. About ten or twelve feet.

Q. Ten or twelve feet from the counter?

A. Maybe more or less, I don't know.

Q. All right, and when we say the counter we are referring to where the cashiers and clerks were standing to do their work, is that right, and there was a phone on your desk, is that right?

A. Sometimes two?

Q. Sometimes two?           A. Yes.

Q. Were those the only phones in the place?

A. Yes, we had a loudspeaker there, though.

Q. But I am talking about telephones for outside communications.           A. Two.

Q. You had a loudspeaker from which the race

(Testimony of Julius Wild.)

broadcasts were made, is that right?      A. Yes.

Q. And the odds were announced, is that right?

A. And the results announced. First came the results, then the odds, and then the "official."

Q. There would also be a description of the race as it was run?      A. At times.

Q. From whom did you obtain that service?

A. From the service people.

Q. What were their names?

Mr. Belli: Just a moment, that is objected to.

The Witness: The service people.

Mr. Belli: Just a moment, please, Mr. Wild. I object to that.

The Court: What is the materiality of that?

Mr. Campbell: I think——

Mr. Belli (Interrupting): That might, I think, involve a collateral matter.

The Court: What is the purpose of this?

Mr. Campbell: I am trying to show the authenticity of the records.

Mr. Belli: Your Honor can perceive this matter and what is involved, what would be involved, namely, a myriad of collateral crimes in the book-making business, and that would be both intrastate and interstate with reference to any wire that was maintained.

Mr. Campbell: I don't know what the last statement has to do with the controversy here. We are trying to ascertain his income and his expenses.

The Court: The witness on the stand, the de-

(Testimony of Julius Wild.)

fendant, in fact, has made a deduction based upon the service, according to Mr. Campbell.

Mr. Campbell: That's correct. [459]

The Court: I think you are entitled to go into that.

Mr. Belli: He is not, if your Honor please. In order to do that, in order to identify the services, he would be going into collateral crimes of purchasing wire service interstate, and as I understand, it would be a collateral crime that he would be charged with.

Mr. Campbell: I don't know as to that, but certainly it is testing the accuracy of the witness and his right to make these deductions. The only way we can test these matters is to go into from whom he received the service as well as the amount which he paid. You certainly can't go through the trial with X, Y and Z. [460] We certainly can not go through the trial referring to an X-93.

Mr. Belli: Do I understand he is being given immunity with reference to any crimes that may come into the jurisdiction of this Court for having received information on horse racing in interstate commerce?

Mr. Campbell: No, sir; that is, not so far as I am concerned, he is not being given immunity. He has a right to claim any privilege he is entitled to, but he is here on trial on various specific issues which have been placed in issue before this Court.

Mr. Belli: I don't think I have ever done this before, but at this time, if Your Honor please, I

(Testimony of Julius Wild.)

shall advise the witness to claim a constitutional privilege, that any answer he may give as to who these people were, from whom he got any wire service information in gambling, would tend to incriminate or may tend to degrade him, and may subject him to other crimes, not only before this tribunal but before the tribunal of the State Court.

I don't think the statute of limitations——

The Court (Interrupting): You accordingly admonish him not to answer?

Mr. Belli: In all due respect to Your Honor, yes, and I know that Your Honor understands in all humility that I do instruct the witness not to answer. [461]

The Court: I think on the advice of counsel, Mr. Wild, I would suggest you refuse to answer the question put to you, and under the circumstances you may feel free to refuse and decline to answer that question.

Mr. Campbell: May I suggest——

Mr. Belli: I do instruct the witness, under the circumstances—that is my advice, Your Honor, in open court, that he has the privilege to accept his lawyer's advice or to act as the dictates of his conscience advises him.

Mr. Campbell: May I suggest, Your Honor, that the admonition of counsel is not pertinent in one respect, in which the witness has been admonished, namely, that he may refuse to answer on the ground the question may incriminate him under the state statute or the state law.

The Court: That it would tend to degrade him.



(Testimony of Julius Wild.)

Mr. Campbell: But the incrimination under the state law is not a ground of immunity.

Mr. Belli: I think the record is clear that he has referred to grounds for immunity due to the possibility or probability of prosecution both in the state and federal courts.

Mr. Campbell: Q. What was the name of the service? A. I refuse to answer.

Mr. Belli: Just a minute——

The Court: You decline to answer, do you, Mr. Wild?

A. I do. [462]

Mr. Campbell: If the Court please, for the purpose of the record, may I have a statement from the witness of the grounds upon which he declines to answer?

Q. Upon what grounds do you refuse to answer?

Mr. Belli: May I then advise the witness in open court, not being learned in the intricacies of law, that he may at this stage of the proceedings, stand upon his United States constitutional right to refuse to answer any question which may tend to incriminate or degrade him, and if the witness so desires he may choose the words of his counsel in answering counsel for the Government's question.

Mr. Campbell: Q. Mr. Wild, upon what grounds do you decline to answer the question, from whom you obtained this service?

Mr. Belli: And further, if I may in open court advise my client, that he may rely upon constitutional grounds, that the answer he may give may,

(Testimony of Julius Wild.)

tend to subject him to criminal prosecution in federal court, in interstate commerce, for receiving information on gambling or horseracing, therefore he may decline to answer on constitutional grounds, that the answer may tend to incriminate him in the federal court. He may accept my answer without reframing it in his own words.

Mr. Campbell: Do you accept counsel's answer as the grounds upon which you refuse to answer that question?

A. I do. [463]

Q. You have referred to the class of service. What expenses did you pay a month for that service?

A. A month? I paid it by the week.

Q. How much a week did you pay?

A. Sometimes \$25, sometimes \$30.

Q. How much a week did you pay in 1941?

A. I don't know. It was one or two figures.

Q. To whom did you pay that money in 1941, what individual?

A. To the service, the collector.

Q. To what individual did you pay it?

A. I don't know the individual.

Mr. Belli: May I respectfully—this is rather unusual, interjecting in this matter, and I mean no disrespect, as Your Honor knows, to either the Court or counsel. Yet I claim the privilege of advising him in open Court that you may stand on your Constitutional grounds, in answering the counsel's questions, if you so desire to do. You are privileged to speak to your own counsel to answer

(Testimony of Julius Wild.)

if you so desire. My advice now is that you need not answer under a Constitutional guarantee.

Mr. Campbell: Q. Will you answer the question? A. I will not.

Q. On the grounds stated by your counsel?

A. Yes, sir.

Q. Did the service you refer to continue throughout the year [464] for 1941, 1942 and 1943?

A. If I was doing business in those years, yes.

Q. Were you doing business in those years?

A. I was, outside of two months.

Q. That was in April and May of 1941?

A. If the cards show, yes.

Q. That is correct, the cards are all correct in that regard, is that right?

A. If the cards are correct—not 1943 now. That did not go all the way through 1943. You said 1941, 1942, and 1943, it did not go all the way.

Q. The service, you refer to? A. Yes.

Q. What portion of the time did you not pay for the service?

A. Please, will you repeat that?

Q. For what period of time in 1941, 1942, or 1943, did you have no expense or were paying no one in connection with service to the wire service?

A. I cannot answer. I may have been out of town, but the cards all refer to the months that I was here.

Q. That is what I was asking about. Were the cards all accurate in respect to that payment? Did

(Testimony of Julius Wild.)

they tell the truth, the cards, with the amount<sup>t</sup> of money that you paid for that service?

A. Well, they should tell the truth. [465]

Q. Do they? You have examined them, haven't you, Mr. Wild?

A. I have not seen that expense on there at all. I did not look at that. All I am referring to is the cards. If I saw the phone bill, I paid it, the expense that was there. As a rule, you see "service" on there. They show three weeks on them cards we did not receive service, they put down for services, but that does not pay the service.

Q. You received a similar card or one of these cards every Saturday night, did you not, Mr. Wild?

A. When I was here, yes.

Q. You were here all of the time, in those years?

A. We would leave sometimes before the Saturday—before it was half over I would leave at one o'clock.

Q. Your Saturday business, except when Local tracks were running, was over by that time, wasn't it?

A. Not necessarily. At one o'clock it was all over here, but at three or four o'clock it run at Charleston, and then it run until five o'clock—

Q. Five o'clock their time?

A. If that was a big day, or four o'clock, by the time we got it and traced it out and everything.

Q. On how many occasions was that?

A. Every year, every time they run.

Q. What months?

(Testimony of Julius Wild.)

A. That I am not sure, because I don't know.

Q. You have gone through these record cards, though, have you not?

A. I glanced through them.

Q. Can you state that the expenses set forth on here for wire service are not correct?

A. Can I state that?

Q. Yes, can you state that they are not correct, that they are incorrect, that they are wrong?

A. It is hard for me to answer that.

Q. Do you know?           A. Do I know?

Q. Yes.           A. That they are wrong?

Q. Yes, as to this expense of wire service.

A. I could not say that I know they were wrong, because I did not expect them that close. This is the first time you throw "service" at me. I did not look for any service on there.

Q. How was this \$25 or \$35 paid, by cash or check?           A. Cash.

Q. Did you deliver it to some one or was the money picked up in your place of business?

A. It was picked up.

Q. Was it on any particular day of the week?

A. Not necessarily. [467]

Q. Was that an expense item that you personally took care of, or did any of your employees pay that money over?

A. I was not there, anyone would pay that.

Q. By anyone, who do you refer to?

A. Mr. Hughes, Mr. Collard, and Mr. Krakauer.

Q. Did you handle the payments for yourself



(Testimony of Julius Wild.)

most of the time?           A. I don't know.

Q. Were you acquainted with the individual who picked it up?

Mr. Belli: The same objection and the same advice.

Mr. Campbell: Q. You refuse to answer that question too?           A. Yes.

Mr. Belli: Just for the sake of the record, he does.

Mr. Campbell: Q. And upon advice of your counsel?           A. I do.

Q. As I recall your testimony, you received one of these cards, or a duplicate of these cards, each Saturday night that you were here, is that right?

A. That's right.

Q. And you are familiar with the matters set forth on these cards?           A. Sure I am.

Q. You examined the cards during the recess?

A. I just went through them.

Mr. Campbell: Some of these have become disarranged and disassociated. [468]

(Off record discussion to the Clerk.)

The Court: Your examination—so the jury will understand you—was in the presence of the Clerk.

The Witness: It was.

The Court: And you were not at any time with the cards except in the presence of the Clerk?

A. That is correct.

The Clerk: I showed some of them myself, Your Honor.

Mr. Campbell: I am missing Card number 1 of

(Testimony of Julius Wild.)

Exhibit 7, and I wonder if the Clerk could examine the record and see if there has been disassociation.

Q. I will show you in the meanwhile a photostat of that particular card, one of the photostats of Government Exhibit Number 10 for identification, that has been identified as a photostatic reproduction of Card number 1 of Government Exhibit 7, the card.

Are you familiar with the nature of the entries made on that card? You can answer that yes or no, Mr. Wild, if you will, please.

A. What is the question?

Q. Are you familiar with the entries made on the card—not exact amounts, but the nature of the entries, the kind of entries which are made there?

A. They look all right.

Q. Well, turn to the back of the card. [469]

A. Maybe this is a little wrong, but I cannot tell you what this is, but I do know that this card was O.K. (indicating) but the two bottom cards, I don't know if anyone can tell us that. You give me the wrong side of the card, anyway.

Q. There are two sides, are there not?

A. The card I got, I only got one side.

Mr. Belli: Just a moment, he gave you the whole card. He did not give you any particular side.

Mr. Campbell: Q. Will you look on both of these? You are familiar with these cards, aren't you, what is set forth there?

A. Well, I can read to you what I am familiar with.

(Testimony of Julius Wild.)

Q. No, I am asking if generally you are familiar.  
(No reply.)

Q. Let me ask you this: on the back of the card there, there are certain expenses of doing business listed, is that right?

A. I don't know what these two are (Indicating). Why should I tell you that I know what this is?

Q. To what items are you referring?

A. "Ser." and "Dr."

Q. You are referring to the items at the bottom?

A. It is \$30 and \$50.

Q. Do you understand the rest of the items on that card?

A. Most of them, all but the bottom, "Elr.-\$5.00." [470]

Q. And now you say this was all part of your—this book was kept for you by Mr. Krakauer, the records of the front room, as you call it?

A. The records for the main room, yes.

Q. The first item is, "Pap. 15,"?

A. Yes, that is newspapers.

Q. Fifteen cents, is that right? A. Yes.

Q. The next item is "Sal. 52". Is that salary?

A. That's right.

Q. That is what you were paying the men who worked per day, is that right?

A. That's right.

Q. The next item is "Frm. \$2.00". What is that? A. That is racing form.

Q. For forms? A. For forms.

(Testimony of Julius Wild.)

Q. The next item is "Janitor—\$5.00," what is that?

A. Well, that is the salary of the janitor.

Q. The next item is "Ext. \$30.00". What is that?

A. Well, that is what I was say is extras. Now it is hard for me to explain what that could be. That could be if somebody come for the Greek relief, or something like that. In other words, the money was taken out of the books, because I subscribed to them every month and I subscribed to the [471] Red Cross and the Community Chest and every one of them. In fact I might have got the receipts for them.

Q. Do you have any definite recollection at this time of what "Ext.—\$30.00" meant?

A. I do not.

Q. The next item is "Rent—\$117.50." Was that the monthly rent on the premises?

A. No, it was \$100 what I paid.

Q. What does the \$117.50 Rent mean then?

A. If you will let me study a minute, I will answer you on it, because that was paid quite a bit.

Mr. Harper and Mr. Hone—that is, the managers of the building—come down and said they will need more rent, "You got these lights going all night, not only the back lights, but the front lights."

I said "I don't use them." He said "Well, Krakauer is here every time I come down here, and so he said "You will have to pay \$17.50 more."

Q. So that your rent then was \$117.50?

A. That's right.

(Testimony of Julius Wild.)

Q. Was that the rent you paid throughout this period?

A. No, I just told you, sometimes it was \$100, and I am trying to explain to you what item this is.

Q. In other words, some months you paid \$117.50 and other months \$100. Is that right?

A. Yes, if I did not have it I always paid \$50.00. [472]

Q. The next item is "Nut, \$105."

A. I don't know what that is. I refuse to answer that.

Q. You refuse to answer?

Mr. Belli: He refuses to answer on advice of counsel, upon the same ground that he heretofore gave.

Mr. Campbell: Q. Is that your statement, that you refuse to answer on that ground?

A. That is.

Q. There was testimony here produced by Mr. Hughes, one of the witnesses called by you on your behalf, that you dictated that item to him, "Nut \$105." Did you dictate that item to Mr. Hughes?

A. If Mr. Hughes said I did, I did.

Q. Well, did you? I don't care what Mr. Hughes said. I am asking you what you did.

Mr. Belli: You may answer.

A. I did.

Q. Do you know to what it refers? I am not asking you now for a statement of what it was. I am asking you for your knowledge, yes or no, do you know? A. (No reply.)



(Testimony of Julius Wild.)

Q. Do you know? Answer yes or no.

Mr. Belli: You may answer.

A. Well, Mr. Campbell, part of that I can for sure tell you that I did know. Part of it I didn't.

Q. Well, how much of it do you know?

A. \$105 is an odd figure for that nut. That might be—that is a charitable thing, or something that I added all together and set \$105 for the month.

Q. I call your attention to the fact that from time to time throughout these cards the item of \$105 appears there with the expression "Nut" or with an X or double X. Do you know what that \$105 item is that appears from time to time?

A. You say the "nut" was only on these several times?

Q. You were here and heard the testimony as to a number of X's or double X items of expense, \$105.

A. Some of them might have been for the nut and some of them—might have referred to the nut and others double X \$15, or any odd small amount, was for charitable things.

Q. What is the nut you refer to here?

A. What do you mean, what is the nut?

Q. On this card, "Nut \$105," what is that?

A. Well, what I got through explaining, part of it for the——

Q. I did not understand your explanation. Will you repeat what the \$105 was paid for and to whom it was paid?

A. Well, it was paid for the main running expenses——

(Testimony of Julius Wild.)

Mr. Belli: Just a minute, please, Mr. Wild. I advise you on that compound question to claim a constitutional right against incrimination, self-incrimination. You may take my advice or you may seek other counsel before you claim your constitutional [474] immunity.

If you desire to claim it, you may accept my statement as the grounds for refusal to answer the question. I respectfully put it in that language, if Your Honor please.

Mr. Campbell: I ask for the question, if the Court please.

The Court: Will you read the question?

(Question read by the Reporter.)

Mr. Belli: I have given my advice, Mr. Wild, that you may refuse to accept that advice and you may seek other counsel, or you may decide at your own dictates whether you are going to answer that. If you decide that you are accepting my advice to you, you will then answer that you refuse to answer the question on constitutional grounds, on the ground that the answer will tend to incriminate or degrade you, or subject you to another crime other than the crime for which you are presently on trial.

A. I take my counsel's advice on it.

Mr. Belli: May the record so show.

Mr. Campbell: You refuse to answer on that ground?

A. I do.

Mr. Campbell: I press my question, if the Court please.

(Testimony of Julius Wild.)

The Court: The witness has refused to answer upon constitutional grounds. He may rest on them.

Mr. Campbell: I did not get the Court's ruling.

The Court: He may rest on that ground.

Mr. Campbell: During the recess, may I be heard on this question, if the Court please?

The Court: You may—on this precise question before the witness at the present time?

Mr. Campbell: On this precise question.

The Court: I think I anticipate that you are going to—well, the jury is here now. Proceed.

Mr. Campbell: I will take up another question and we will pass on to another subject for the time being.

The Clerk: Here is No. 1.

Mr. Campbell: Let the record show that the card that was previously missing has now been found, apparently out of order.

Q. Mr. Wild, considerable has been said about a book, or a little black book, which you stated you kept, and which I believe you described as a 6 by 8 black book. You recall that testimony, do you?

A. I do. I said I kept a book 6 by 8. Whether it was black bound or tan, I did not know, but it was a book.

Q. Yes. I believe you said—I don't know whether it got in the record or not here, but you referred to a book about the size of this Defendant's Exhibit L, is that right?

A. That's right.

(Testimony of Julius Wild.)

Q. This, of course, is not the book you refer to as the little black book? [476]

A. It is not.

Q. This particular book is a book showing the dates of employment of the various employees, is that right? A. That's right.

Q. And was kept, I presume, for Social Security purposes? A. It was.

Q. This book has nothing to do with the amount of money or profit that you may have made from day to day or week to week or month to month?

A. It has not.

Q. Now, when did you last see that black book that you referred to?

A. It is hard for me to tell you when I last saw it. I tried to explain that to you before. I don't know when I last saw it, but it was in the year 1943, if that is what you are driving at.

Q. You stated the last time you saw it was around or about some raid on the place, is that right?

A. Well, I am not so sure, I don't know.

Q. You recall Mr. Hughes testified here on your behalf as a witness, said that the last time that he saw that book was in the spring of 1941. I suggest to you that your place was closed in April or May of 1941. Did you ever see the book after that time?

A. Meaning a book 6 by 8? [477]

Q. Yes.

A. I saw it all the time—in that year.

(Testimony of Julius Wild.)

Q. What's that?

A. I saw it in 1941 and I saw it in 1942—a book like that. I don't mean the same book. I have had a book pretty near every year—when it ran down to the end.

Q. I am referring to a book in which you made entries and in which you show your true profit or loss on your entire business.

A. That's right.

Q. And you saw that in 1941, '42 and 1943, is that right?

A. Yes.

Q. Was it just one book that you had for all three years, or was it——

A. No, no, I had a book every year.

Q. Then there were three books, weren't there, for this period?

A. There might have been four.

Q. There might have been four books?

A. Yes, it might have been a carryover from 1940.

Q. All right. When was the last you saw the book relative to 1941 that has your 1941 entries in it?

A. After I had taken the 1940 figures and entered them in the new book, and I would either put them in my trunk or I would take it down and store it in the—well, in the library [478] down at the place.

Q. You mean at 1182 Market Street?

A. That's right.

Q. Well, now, during 1941 were you making



(Testimony of Julius Wild.)

entries daily in this book, the book that has your 1941 entries in it?

A. Well, if I did not make them daily I made them weekly.

Q. All right, weekly. A. Weekly.

Q. And that continued throughout 1941, is that right? A. That's right.

Q. When did you last see the book that had those 1941 figures in it?

A. I last see that book about in—put it in the 1942 start.

Q. When did you ever see it in the 1942 "start"?

A. When the year 1942 started, January 1, 1942.

Q. Did you destroy your 1941 book at that time?

A. I don't think I did. Maybe I put it in the trunk in the hotel, or I put it back over there in the room. I had a lot of storage there.

Q. The 1942 book that you started has your 1941 figures in it, too?

A. That is correct, you know, the last figures, you know what—that total figure of the whole year was carried over to the next year.

Q. Those contained the expenses of the year?

A. (No reply.)

Q. What figures did you put in there in the book, in 1941?

A. I put my total losses and total gains, and then at the end of the year I put what I lost and what I gained and what I reported to the Government in my income tax return—my income tax return and my income tax payments.

(Testimony of Julius Wild.)

Q. When was that, in what month?

A. If I had the 1941 book, I had the 1940 year in there. That is, I put in 1940, March 15 or March 10, for whatever year it is. If I had the 1942 book, I had what I paid in 1941.

Q. All right. Let's take with relation to your 1941—your business of 1941 and your 1941 income tax return, which is Government Exhibit No. 1 here. At the time that that return was prepared, did you have a book which had in it the information as to your income of 1941? A. It did.

Q. And where was that book? Is that the book to which you refer? A. I just told you.

Q. What was the total figure? Did it have the total expenses and the total income?

A. I would go over to the adding machine, jot it all down for every item, 52 weeks, and that would be the total for 52 weeks and then I would sum it right down through the year.

Then I would take the piece of tape off there and if I had [480] the books there, I would put it right in the book. If I had it in the room, I would take it over to the room and destroy the tape.

Q. And you never showed these books that you referred to to Mr. Callahan when he prepared your returns, did you?

A. I did not care to show them to anyone.

Q. You did not show them to him?

A. To whom?

Q. Mr. Callahan. A. No.

(Testimony of Julius Wild.)

Q. As I recall, he asked you from time to time for books? A. He did.

Q. But you never showed him any books?

A. I did not.

Mr. Campbell: Does Your Honor care to take the recess?

The Court: What was the previous question, Mr. Reporter?

(Last few questions and answers read by the Reporter.)

The Court (To the Witness): You did not from time to time show Mr. Callahan the books?

A. I did not.

Q. By that I mean the black book? We referred to it as the black book; we all know it as the black book.

A. I did not show him any of them.

Q. You did not show Mr. Callahan any of them at all? A. I did not. [481]

Q. As I understand you, Callahan asked you several times for that book?

A. Well, he asked me sometimes on the income tax.

Q. That was the only source of information you had available for the Government in connection with income tax returns? A. In that book.

Q. Yet you saw fit not to show Callahan the contents of that book? What, if any, reason have you now to offer why you did not show that book to Callahan?

A. Well, I had some private information like telephone numbers in there, and I did not care for

(Testimony of Julius Wild.)

anybody to see that, because the people that were involved in them telephones were very important people.

The Court: All right, we will take the recess.

Mr. Belli: I wonder if that question could be answered to your Honor in chambers without having it come out in open court here.

Mr. Campbell: We object to that. That is not proper.

The Court: Well, ladies and gentlemen of the jury, we will take the afternoon recess, and may I again admonish you not to discuss this case amongst yourselves or suffer or permit any person to converse with you on any subject of the trial until the case is finally submitted to you.

Counsel, you have several matters to discuss with me?

The jurors may now retire for the afternoon recess.  
(Thereupon the jury retired.)

(The following proceedings were had in the absence of the jury:)

Mr. Campbell: I think Mr. Wild should stay in the courtroom.

Mr. Belli: I don't think this will take long. I think I know what counsel has in mind.

Mr. Campbell: I will make it brief. I simply wanted the record to show that I press the matter with relation to certain questions which have been asked of this witness, and his refusal to answer, on the ground that the answer may incriminate him on several grounds, further that it might tend to degrade him.

(Testimony of Julius Wild.)

We have here a situation of a defendant who has offered himself on the stand, and who has thrown aside the cloak of immunity, which is in favor of the defendant, in a criminal case, where he can not be compelled to give evidence which will incriminate him.

So far as other clients are concerned, the cases with which I am familiar deal with other people, witnesses who are produced, and who are asked questions which may disclosed the existence of other crimes.

But so far as the defendant here concerned, the very things in issue are the amounts and sources of his income, what his expenses are, whether or not they were ordinary and necessary [483] expenses of doing business.

We are faced with the situation here where he is claiming certain expenses, and yet in order for the Government to verify those expenses, he is raising the cloak or the purported cloak, or the claim rather, of constitutional immunity against self-incrimination.

I do also want to point out in that regard, that if there is conceivably any federal crime—and I think my point is well taken—that this Court only acts to protect the witness against incrimination for federal offense and not with regard to a state offense, but if there was any crime that would be or could be involved by any admission or answer which we could conceive of this witness giving in answer to these questions, the statute of limitations



(Testimony of Julius Wild.)

has run as to violations of the Federal Communications Act.

Counsel referred to this offense having transpired back in 1941, '42 and 1943. I think I am correct in asserting that crimes under that act are barred after the termination of three years.

We think that to permit the witness to stand upon and to secure that cloak of protection by the Court, impairs the Government in its pursuit of the truth with regard to claimed expenses by these defendants.

(Off-the-record discussion between counsel.)

Mr. Campbell: I want to point out a matter that was [484] called to my attention by Mr. McMillan, and that is that in these cases, the law is well established that the Government is entitled to claim these taxes, regardless of the illegality of the defendant's business, and the nature of that business is a legitimate inquiry, even though the subject of the business itself may be of an illegal nature.

The Court: That is true.

It is further true that certain expenditures—this is the Government's position, which the Court has not ruled on, although offered in instructions—that certain types of expenditures are not allowable in an illegal business, as being contrary to public policy, and I think the reasons for that are well founded in logic and well founded for moral reasons.

Now, we are attempting here to verify items set forth on his cards for expenses, and I think we are

(Testimony of Julius Wild.)

entitled to be able to verify those, to the extent that it is possible to do so.

Mr. Belli: Just in brief answer, if there is any question about what those items are for—although it is entirely in the record now, they were for this pay-off. That is clear from the record, but that could be stipulated to.

If counsel says that those are not properly deductible items, we have it in the record that we can stipulate to, that they are pay-offs. Whether they are deductible or not is a question of law and not of fact, because I am willing to stipulate. [485]

On the other issue, there is still open here the question of whether Mr. Wild should be indicted for conspiracy to violate the Federal Communications Act and any number of acts under the federal as well as state statutes, and the statute of limitations does not bar on that.

Without elaborating on that, your Honor can see that placing a wire service into a bookmaking establishment is not the end in view per se. What the bookmaking establishment is trying to do is make money on gambling, and gambling is the illegal enterprise, and the pay-off is for the illegal enterprise.

Conversely, you start with the pay-off, and the whole illegitimate enterprise, right straight on up to the wire service, and the conspiracy is brought before your very eyes, and that is why I think the man must necessarily take his constitutional immunity.

Mr. Campbell: May I add this one thing as to the pay-off—

(Testimony of Julius Wild.)

The Court: Are you willing to accept counsel's stipulation?

Mr. Campbell: I think we are in agreement, your Honor, that that particular matter should not be a matter of stipulation, by reason of the fact that it has a bearing upon the intent of this defendant with respect—I might say in that particular item at least an unfortunate intent which has a direct bearing on this case, so far as the real offense is concerned.

The Court: I can not understand why the wire service [486] assumes the proportions it seems to assume. I can not over-dramatize that phase of it.

Mr. Campbell: I understand.

The Court: Wire service is wire service, and you are not claiming, in the returns, any deductions are not allowed for wire service.

Mr. Campbell: No, we are allowing that deduction, your Honor, so possibly that assumes something out of its proportion.

The Court: You move from the province of debate the so-called wire service, because the Government is admitting any amounts paid thereon are legitimate deductions.

We do, however, come to a more basic problem, and that is the question of the so-called pay-offs—it has been so characterized by counsel — in the amounts of \$105. That does go to the very heart of this controversy. The Government claims that that amount of \$105 each and every month is not a deductible item.

(Testimony of Julius Wild.)

Mr. Campbell: Correct, your Honor.

The Court: As the amount involved was paid in such fashion as to be contrary to the policy of the law and contrary to good morals.

Now, the only basis upon which we can ferret out the nature of that payment and the scope of it, whether it comes within that particular bracket within the condemnation of the law, is [487] to develop the facts.

The defendant has placed himself on the stand, and I think I have offered him considerable protection during the course of the cross examination. As to that protection, the Government's counsel has not objected. I think we are all in accord on that phase of it. I do feel, however, that the Government's counsel is correct, the witness Mr. Wild should characterize the payments, at least because of its appellation, in proper description and terms, from his viewpoint. Mr. Krakauer has testified on it.

The witness has attempted—whether designedly or not—to say that there was some charity matters there.

I think, in the light of counsel's question that he is entitled to go into it and ferret out the characterization of it.

The witness is instructed to answer that question. You will resume the stand, Mr. Wild, and answer the question.

Mr. Belli: So that the record may be clear, may we take an exception to your Honor's ruling? I

(Testimony of Julius Wild.)

think if your Honor persists in the ruling, with all due respect, it will result in a mistrial and misconduct on the part of the United States Attorney and the Court, particularly after we have offered to stipulate as to what that is, and there certainly is no question in the record what the payment was.

Counsel refusing therefore to take the stipulation, [488] regardless of what he said on the record, must not then be in good faith in preferring to get from this witness what he wants to get from him, that is, the details of this gambling venture.

The Court: There is one contradiction to that, counsel: The fact is that the witness has testified, just prior to the recess, that part of the \$105 was paid to charity, the Community Chest, War Relief and the like. Now, if that stipulation had come out at a time prior to that answer, I think it would be a fair case on the part of counsel to accept it.

Mr. Campbell: Except for one thing, your Honor: I wish to point out, since Mr. Krakauer's testimony as to the nature of these payments, there has been a very serious attack upon his credibility, with inferences that he is completely unreliable. I think we are entitled, if we can, to substantiate all parts of his testimony.

Mr. Belli: How does that substantiate the witness' testimony, by having Mr. Wild, the party here, being forced to testify to a separate crime? That's what it amounts to.

The Court: Well, that is my ruling.

Mr. Belli: May I—so the record may be clear—say one thing further on it, your Honor?



(Testimony of Julius Wild.)

Counsel persisted in forcing Mr. Wild to answer those questions. We move at this time to strike out any testimony with reference to what these payments were, when the record was [489] clear on that, and it is a question of law as to whether these are deductible income items.

The Court: Counsel, may I ask you to direct your attention to the specific thing you have in mind? Are you talking of the \$105?

Mr. Belli: Yes, we move to strike out any testimony with reference to that question of its being for charity or anything else. I think that came from the witness by way of misconduct on the part of the United States Attorney, in repeatedly asking him the question, after the witness showed that he wanted to take a constitutional on it. We move to strike that out. So that the record will be clear at the present time, again we are willing to stipulate as to what those payments were and we indicate in the record that counsel can not be in good faith in pursuing this issue, after the stipulation is offered that they were for pay-offs.

If there is now an attempt made to show some collateral crime on the part of Mr. Wild, it is only for the purpose of prejudicing him in the eyes of the jury.

Mr. Campbell: Mr. McMillan calls my attention to a matter I was also going to call to the attention of the Court, that we have a situation here where counsel is now attempting to stipulate that his

(Testimony of Julius Wild.)

client did not tell the truth on the stand. I think the jury is entitled to the truth of this matter.

The Court: That is the basis of my ruling. I thought I [490] made that clear.

Mr. Campbell: The stipulation does not have the dignity of testimony. On that record we stand. We will submit it.

Mr. Belli: So that your Honor understands, and the record is clear, my position is that he was badgered into and forced to answer, by way of misconduct on the part of the United States Attorney.

The Court: Counsel, for fear that some reviewing court might perchance by some small degree be misled by that term "badgered", I desire to have the record show that at no stage of the cross examination of the defendant Mr. Wild was he badgered, molested, interrupted or otherwise cajoled into any answer or admission concerning any material fact.

Mr. Belli: Except that the man had taken the constitutional, your Honor, and he was repeatedly asked and questioned upon it, and he said that he refused to answer.

The Court: That was the Government's province. I think the defendant Wild is getting as fair a trial as any man ever received in this court.

We will now take the recess.

(Recess.) [491]

Mr. Campbell: Shall I proceed, your Honor?

The Court: Yes.

Mr. Campbell: Q. Mr. Wild, I am going to return to you the first card of Government Exhibit

(Testimony of Julius Wild.)

No. 7, pertaining to the first week of January, 1940, and I am handing you this time the original which has been found rather than the photostatic copy, and I am going to direct your attention to the listing there of expenses where there is the word "Nut—\$105." I will ask you what that expense was, and to whom it was paid.

Mr. Belli: May the record show the witness on the advice of counsel refuses to answer on constitutional grounds, and I think your Honor made a ruling and your Honor may so advise the witness.

The Court: The witness was present during the recess when I ruled on this point. You may now answer that question, Mr. Wild.

The Witness: A. Your Honor, at this time when this card is made out, and this was put on, I was at Santa Anita. If you have another card where I was I could explain it because I didn't make this up.

Q. You did not direct that entry?

A. I was not here. I was at Santa Anita.

Q. So that as I understand your answer now, you don't know what this "Nut—\$105" is?

A. I don't know, because I wasn't here. [492]

Q. Do you know what this item "Ext—\$30" is on the same card?

Mr. Belli: May my objection and exception and admonition and motion run to all of this line of testimony without the necessity of repeating it, your Honor?

The Court: It may, but, of course, "Ext" comes

(Testimony of Julius Wild.)

within a different category altogether. Did he say "Ext" means "extras", is that right?

Mr. Campbell: Yes, your Honor, but I am repeating to him, asking him if he now knows what that "Ext" is.

The Court: Objection overruled.

Mr. Belli: But my objections, exceptions and motions may run to all this line of testimony without the need of renewing them?

The Court: Yes, and the record may so show, counsel.

The Witness: A. I didn't write this "Ext" for this ticket. But I have an idea what it is. It could be two or three or several things. I don't know exactly what this is.

Mr. Campbell: Q. I am going to direct your attention to card No. 9 of the group, Government's Exhibit No. 7 for the period ending March 1, 1942, and to the expenses labeled "X-105." Do you know what that is, sir?

A. He said this is 1942. This is March 1, 1941.

Q. 1941, I beg your pardon.

A. March 1, 1947. I was not here either. [493]

Q. Where were you on that day?

A. Where was I March 1, 1941? I can tell you close to March 1. I can't tell you where I was on that day right now. I am trying to.

Q. Can you state definitely you were not in San Francisco on that date?

A. If you show me the calendar, Mr. Campbell, I could for 1941.

(Testimony of Julius Wild.)

Mr. Campbell: May this be marked for identification, if the Court please?

The Court: So ordered.

(Calendar for 1941 was marked U. S. Exhibit 16 for Identification.)

Mr. Campbell: Q. I am going to show you a calendar for the year 1941, which has been marked U. S. Exhibit 16 for Identification, and I ask you where you were on the 1st day of March, 1941.

A. This is on a Saturday. To the best of my recollection I left here either on a Thursday or a Friday to see Saturday's races at Santa Anita and to go to work at Tijuana on Sunday and come back Monday, but I didn't get back until Monday or Tuesday.

Q. Were the races running at Caliente at that time? A. Every Sunday.

Q. And you were not here on any Saturday through 1941? [494]

A. I would be here some Saturdays until one or two o'clock, depending upon what plane I would take or what transportation I would get.

Q. Did you go to Caliente or Tijuana every Saturday of 1941?

A. If I was not there Saturday night I would be there Sunday night. Not every — but when the weather permitted, or if I could drive I would make it every time I could.

Q. Mr. Wild, you have heard Mr. Krakauer testify here that the item of \$105 were a monthly item paid for protection. Did you hear that testimony?



(Testimony of Julius Wild.)

A. I heard what he testified to.

Q. And was there such a payment made every month in connection with the business?

Mr. Belli: May I have the same objection and exception and admonition?

The Court: Yes, and the objection is overruled.

Mr. Belli: And it is also understood the witness still seeks to accept his constitutional with respect to this question?

The Court: Yes, to this particular point.

Mr. Campbell: Will you read the question, please?

Mr. Belli: Q. Mr. Wild, you were asked—

Mr. Campbell: No, let the reporter read it.

(Question read.)

The Witness: Not exactly \$105. There was such a payment [495] like that made, but it varied.

Q. How much was that payment?

A. What do you mean, how much was the expense?

Q. How much was paid a month for protection expense.

A. I would give \$80 one place and ten another, and there never was \$105 put in one envelope.

Q. Where did you give the \$80?

Mr. Belli: May the record show through all this testimony the witness does on the advice of his counsel refuse to answer because to do so will tend to incriminate him or degrade him and put him in a position of being charged not only with a State

(Testimony of Julius Wild.)

but a Federal crime, as well as being charged with income tax evasion.

The Court: Counsel, ask the question, if the item of \$105 over a period of months, as embraced in the returns, represented so-called protection money. If that question is asked and answered we will then depart from this particular subject.

Mr. Campbell: As to the question suggested by your Honor, the payment is not embraced within the returns. It is in the cards.

The Court: It is integrated in the figures but embraced in the cards. Rather than to segment it and ask where \$10 or \$80 may have gone, I think if you had that in the record that would be sufficient. [496]

Mr. Belli: May the record show my continuing objection, exception, admonition and motion?

The Court: Yes.

Mr. Campbell: Q. Mr. Wild, did you pay throughout the period and to whomever was paid the amount of \$105 a month in the aggregate each month for purposes of protection?

A. I wouldn't say it averaged \$105, and, furthermore, I don't know whether this is protection money or what, or whether it was my own money. When I was first there I had to take it "down the lines" and then to Peter McDonough, and I don't know what it was for. If I was operating I had to pay that expense.

Q. And you couldn't operate unless you paid it. That was your belief at the time? A. Yes.

(Testimony of Julius Wild.)

Q. And that is, it ran to \$105 a month?

A. I am trying to tell you, it ran more and it ran shorter.

Q. I call your attention to the fact that throughout these cards from time to time there is the item of \$105. Is that the item to which you refer?

A. Yes. You know, it is a sample of what I am referring to.

Q. But you believed you could not operate unless you paid it, and it was for that purpose for which it was paid?

A. When it comes to protection, you said "protection — protection." I was not protected very much when I was arrested [497] 23 times in 23 months.

Q. In view of your statement, you ordinarily knew in advance when there was going to be a raid on your place, did you not?

A. No, sir.

Mr. Belli: That's objected to as incompetent, irrelevant, and immaterial.

The Court: Objection overruled.

Mr. Campbell: Q. Weren't you advised?

A. Well, the runners would call me if they raided my competitors they would call me and say, "It is getting hot down here. Watch your step."

Q. But you did secure advice in advance of any of those raids with a few exceptions?

Mr. Belli: Just a minute, that is objected to on the ground it is incompetent, irrelevant, and immaterial, and could have no bearing on the charge of income tax evasion. I advise my client not to

(Testimony of Julius Wild.)

answer the question on his constitutional. If your Honor instructs him he will have to abide by your Honor's instruction.

The Court: The objection is overruled.

Mr. Campbell: Will you read the question?

(Question read.)

Mr. Belli: And I have an exception to your Honor's ruling, too.

The Court: Yes. [498]

Mr. Campbell: Q. You may answer the question, Mr. Wild.

Mr. Belli: Q. You can answer that "Yes" or "No". The Witness: A. No.

Mr. Campbell: Q. Isn't it a fact, Mr. Wild, that you were advised and arranged bond in advance of the raids?

Mr. Belli: That is objected to as incompetent, irrelevant, and immaterial, highly prejudicial; it tends to incriminate and degrade the character of the witness here and the defendant, himself, for other crimes than for which he is being charged here. In fact, he is being put on the stand now for more than the crime of income tax evasion, and I again, to the best of my humble ability, advise my client to abide by his constitutional guarantee on the ground to answer will tend to incriminate or degrade him on other charges than that presently being tried before your Honor and this jury. If your Honor rules otherwise, he will have to abide by your Honor's instructions—

The Court: I believe, Mr. Campbell, a sufficient scope has been given to surround that payment

(Testimony of Julius Wild.)

sufficient to characterize it. If you pursue the matter beyond this, I will sustain counsel's objection.

Mr. Belli: Thank you. Is that all, then, on this subject?

The Court: I think the witness has answered the questions. We have allowed sufficient latitude on that. [499]

Mr. Campbell: All right.

Q. Now, let us come back to this little black book. Mr. Wild: You say at the time that the revenue agent called upon you for further books to substantiate your 1941 return, you turned this black book over to Mr. Krakauer, is that right?

A. I did.

Q. And from it he made up the 12 cards that you and Mr. Callahan took down to the revenue agent's office? A. He did.

Q. But you never showed the black book to Mr. Callahan at any time?

A. Not to my knowledge.

Q. So that so far as you know Mr. Callahan did not know what was in the black book, is that right—so far as you know? A. Yes.

Q. Now, there has been some testimony here by Mr. Callahan as to how he made out with the returns. You heard that testimony, didn't you?

A. I did.

Q. You heard Mr. Callahan? A. I did.

Q. And you heard him testify that you would supply him monthly averages as to the various expenses which you had there and he would set those



(Testimony of Julius Wild.)

down for each month, isn't that right? You heard that testimony, is that correct? [500]

A. I think so.

Q. And you heard his testimony that the only record he ever had before him was with respect to the wages paid your employees, Social Security, which is this book Defendant's Exhibit L, is that right? A. That's right.

Q. And that is the fact, that that is all you know that Mr. Callahan had? A. That is all.

Q. And that is all he had at the time he prepared the return for 1941?

A. That is all. I gave him the figures.

Q. You heard Mr. Callahan testify, did you not, that he averaged these expenses you gave him, plus the salaries, and added approximately \$5000 as your profit for the year, is that right?

A. I don't know where he got the right of \$5,000. That ain't the figure I gave him. The figure I gave him was exactly the figure that I had in the book.

Q. Did I understand your testimony that you did not, as Mr. Callahan said, give him a figure of profit for the year? A. Oh, yes, I did.

Q. Was that figure \$5000 for 1941?

A. I don't know exactly what that figure was. If you show me this book, or if I had the book I could tell you.

Q. Mr. Callahan testified you told him your profit was \$5000, [501] and so he added that to the expenses to arrive at the gross business.

(Testimony of Julius Wild.)

A. I didn't say the profit was five thousand—I said around five thousand.

Q. Did you supply the figure \$4998.36 as your profit?

A. If Mr. Callahan put it down I supplied it.

Q. Did you supply that figure?

A. I am not sure of it, that I supplied it, but I supplied my figures to him. Now, if that was the figure I supplied him that is what he got, and if I had my book I would tell you exactly to the penny what it was.

Q. And you say the black book you had supported the figures that were taken down to the revenue agent?

A. That's right.

Q. And were taken out of that book?

A. That's right.

Q. Yet those are the same figures that Mr. Callahan arrived at in his work sheet in the method he described here?

A. I guess that's right, too.

Q. You found that Mr. Krakauer was a very efficient and accurate bookkeeper, did you not?

A. He was so accurate that I never had another one like him, or never saw one like him.

Q. He kept track of everything right down to the penny?

A. And if there was anything smaller than a penny he could keep [502] it smaller than that.

Q. That's right?

A. That's right.

Q. And he kept those records for you for the period of nine or ten years, didn't he?

(Testimony of Julius Wild.)

A. I don't know whether it was for the period—

Q. Well, it was a period of several years?

A. Around that.

Q. There has been some question here about sleepers.

A. Yes, sir.

Q. Did you include the sleepers in the book which you kept?

A. No.

Q. Were the sleepers included on the cards which Mr. Krakauer kept?

A. Sometimes they were. It all depended — Now, if there was — Well, you asked me and I will answer you. I said it all depends.

Q. Were they reflected on those cards, Government's Exhibits 7, 8, and 9?

A. Maybe a few were and maybe they were not.

Q. Do you know?

A. Well, it is "Yes" and "No". There might have been some; I never saw no sleeper on there yet. On every one of those cards I looked at I never saw a sleeper.

Q. These are the cards you used in making up that black [503] book, weren't they?

A. But I never got no card with no sleepers. He and I tended to those sleepers before I went with my part.

Q. That has nothing to do with these records?

A. What, the sleepers?

Q. Yes, the sleepers.

A. I don't think so. You may find one or two

(Testimony of Julius Wild.)

there, but maybe I can explain them. There is a large sleeper there—

Q. Did you find any sleeper when you went through these? A. What?

Q. Did you find any sleeper when you went through these cards?

A. Mr. Campbell, I wasn't looking for sleepers. I was looking at the writings to make sure that every one of them were Mr. Krakauer's cards. I didn't look for sleepers.

Q. Will you look during the evening recess and determine whether or not there are any sleepers there? A. When, now?

Q. During the evening recess or in the morning before court. A. Sure I will.

Q. All right. Let us go for a minute to your business at Tijuana or Caliente. Which was that, Tijuana, or Caliente?

A. Well, it is the same thing. It is Caliente Jockey Club in Tijuana, Mexico.

Q. That's right, so that those terms are used interchangeably when we say Tijuana or Caliente?

A. It refers to the same place.

Q. The town in Tijuana and the track is at Agua Caliente, the hotel? A. That's right, sir.

Q. All right. You say during the period in question you went down there about 50 times, as I understood your testimony.

A. Well, it would figure around that. It is hard to say. If I had my book I could tell you every trip I made.

Q. For purposes of refreshing your recollection,

(Testimony of Julius Wild.)

you were shown a document which bears the number of some account with the United Air Lines in 1941 or 1942.      A. Yes.

Q. Can you state approximately how many times you were down there in 1942?

A. I cannot.

Q. Would it be every week end?

A. If the weather permitted.

Q. Was it the same way in 1943?

A. Oh, no—no, no—1943. I think the Government— Well, 1943 you had to have priority to go, and sometimes I could get to go and sometimes I couldn't. In other words, if there was nothing—

Q. You mean plane priority, is that right? For plane reservations?      A. That's right. [505]

Q. About how many times did you go in 1943?

A. That I can't tell you, because I don't know, myself.

Q. Did you average once or twice in a month?

A. I don't know.

Q. Caliente is only open during the winter months, isn't it?

A. It is open the year round.

Q. Was it open the year round then?

A. Yes.

Q. However, during 1941 and 1942 you averaged almost every week end, is that right?

A. Well, I wouldn't say every week end, because there was times here that I would get so that I just couldn't make it. So I would phone down and have the man that is working for me, Mr.—I think his name was Robert Campbell. Well, he was one



(Testimony of Julius Wild.)

of my men, and "Green Tie", he was in charge, and I would phone him and say, "I can't make it."

Q. Throughout this period when you would get down there you were making book, is that right?

A. Yes, sir.

Q. And for that purpose you established a credit down there, you say, with the club.

A. I always had a credit there.

Q. And you had a credit of \$5000 at least?

A. No, I never did have that kind of cash up, but I still had that— Well, my name was worth it.

Q. When you went down there, I believe some question was asked of Mr. Hughes—did you take cash down with you?

A. Oh, what I had in my pocket.

Q. How much cash would you have in your pocket and how much cash did you take down with you?

A. Whatever I had in my pocket. If the book went good I had a good bankroll, and if the book went bad I had a short bankroll.

Q. When you talk about the book are you referring to the book up here?      A. Yes.

Q. In 1942 and 1943 how much were you in the habit of taking to Caliente or Tijuana when you went down there to run your betting down there?

A. You are going into 1943, and I just told you I would have to wait until somebody was bumped off until I could get a plane ride, because the Army and Navy services came first, and I came next.

Q. You were down there in 1942?

(Testimony of Julius Wild.)

A. Yes, let's take 1942 first.

Q. All right, let's take 1942 first. How much money did you take down there?

A. If I went I would go to the book and have a thousand dollars, if everything went all right, and I would take that one thousand dollars with me.

Q. Sometimes it would run over that?

A. Sure, it would.

Q. How much is the most you remember taking down with you?      A. Of my own money?

Q. Of cash that you carried down there for betting purposes.

A. I carried cash for men here that got big cash from the east, three or four thousand dollars.

Q. Was that the average amount you would take down with you, your own or somebody else's?

A. No, one thousand dollars was my own and the rest was other people's.

Q. You would carry other people's money?

A. Yes.

Q. Sometimes three or four thousand dollars, is that right?

A. Not sometimes. Now, maybe two times a year or three times a year. One time I carried seven thousand dollars down.

Q. When was that?

A. When Seabiscuit win.

Q. What year was that?      A. 1940-41.

Q. And Seabiscuit ran at Caliente?

A. No, for the future book.

Q. Well, let's take Caliente.

(Testimony of Julius Wild.)

A. They had a future book at Caliente. They run it every year. [508]

Q. That was money you took for Caliente?

A. Yes.

Q. Let's take 1941—Seabiscuit ran in 1940.

A. Yes, and 1941.

Q. Let us take 1942 first. We are talking about 1942 first at your own request. A. Yes.

Q. You said you carried about \$1000 of your own money, is that right? A. Around that.

Q. To Caliente?

A. To anywhere I would go.

Q. And to Caliente when you went there, is that right? A. Yes.

Q. And you would carry sometimes three or four thousand dollars of other people's money occasionally?

A. Now you got it—occasionally.

Q. Now, in 1943 when you went down there how much of your money did you carry at times when you went down there?

A. Pretty near the same amount of what I had in my pocket.

Q. How did you carry that, in currency or coins or checks? A. Always currency.

Q. In what form did you bring back the money you brought back from Mexico? Would that be in currency or be check, or how?

A. The same thing. [509]

Q. Currency? A. Yes.

Q. After August 8, 1942, when you went down there, did you register that currency at San Diego?

(Testimony of Julius Wild.)

A. What do you mean register? I registered nowhere. I registered at the border. You had to register at the border.

Q. Did you register the currency?

A. Sure, I did. I had to register. Well, I had to get change for it.

Q. Did you leave a record at the border when you came back as to the amount of currency?

A. They would take the record. If you did not give them a record you didn't get over and you had to change it into \$2 bills.

Q. As a matter of fact, you couldn't carry any currency over after August 8, could you, Mr. Wild?

A. Yes, you could carry all the currency you wanted.

Q. In \$2 bills, but no other denominations?

A. That's right.

Q. Did you carry all this money in \$2 bills?

A. When I came back?

Q. Yes.

A. Well, what I had in my pocket had nothing to do with the book.

Q. I am asking you about the money you brought back from across [510] the border after these expeditions of yours. Was that all in \$2 bills?

A. If I borrowed some money off of them and had money, or wanted to get a check, I could go into the office and get a check.

Q. You did not deal in any of the scrip, did you?

A. No, I did not.

Q. You never dealt in the scrip that was put

(Testimony of Julius Wild.)

as between the United States National Bank and the Banco del Pacifico, of Mexico?

A. No, sir.

Q. You always dealt in currency?

A. I did.

Q. And you always registered that at the border?

A. I did.

Q. That was under the Foreign Funds Control that you registered that?

A. I am pretty sure I registered it.

Q. All right, sir.

A. If you didn't register those things you know what they done with them things. You just registered them and they gave you some change.

Mr. Belli: Why don't you wait until the question is asked you, Mr. Wild?

Mr. Campbell: Q. With regard to this Dr. Shornick you [511] referred to, you say Mr. Krakauer kept a record of that?

A. He certainly did.

Q. That was part of his job there to do that?

A. That was his job.

Q. Now, the individual that was produced here this morning that you subsequently identified as "Artichoke Joe," you say you owed him \$1000 since 1943?

A. I did. [511-A]

Q. Is that money that you borrowed from him?

A. It is money I had to pay off.

Q. When did you borrow that?

A. That I don't remember.

Q. You say you gave him security for that?



(Testimony of Julius Wild.)

A. I certainly did.

Q. A ring and a watch?

A. Either a ring—maybe both. He was given a ring or a watch or both.

Q. When did this occur? You say he called you and said, "Come and get your stuff."

A. "Come and get your stuff."

Q. When did that happen?

A. That I could not be sure. I do not remember.

Q. Several years ago?

A. Well, it happened in 1941, '42 or '43.

Q. Well, which time?

A. Well, Mr. Campbell, I don't know.

Q. Do you know that any of this took place, this \$1,000 transaction, in any of the years 1941, '42 or '43?

A. It did, not only on one occasion. I owed him more than that on others. That is just one occasion.

Q. When did it happen?

A. It happened every year.

Q. When was it that he called you and said, "Come and get [512] your stuff."

A. You have a record there. If you could tell me, then I can verify it.

Mr. Campbell: I have no record at all, Mr. Wild.

The Witness: You haven't?

Mr. Campbell: This is the first I know of this.

A. Well, that is true. He said, "Come and get it," and then he was closed for three or four days and I said, "Joe, I haven't got the money right now," and he said, "Pay me any time you want to."

Q. When is the last time you saw him before

(Testimony of Julius Wild.)

he was produced here in court this morning?

A. Since that time.

Q. Well, how long ago was it, as late as last Friday? A. What?

Q. That you had any contact with this Aritichoke Joe.

A. I haven't had any contact with him since I was closed; just when I done business with him.

Q. That was in 1944?

A. I think I done business with him—every time he reopened, I done business with him and big business.

Q. You say you have known him for 15 or 17 years.

A. Maybe I'm wrong, I would say 1926. How long ago was 1926?

Q. Well, 22 years?

A. After I got open three or four years, when I started [513] running a book for myself. Well, it is 17 years, say.

Q. There is no mistake, Mr. Wild, that the same man who appeared here this morning is the same man you described as knowing since three or four years after you opened your book?

A. I could not mistake that man. I could be half blind and still tell you that that is Joe.

Mr. Campbell: May I suggest a recess, your Honor?

(Informal discussion of further witnesses and time to complete the case.)

The Court: Ladies and gentlemen of the jury, we will take the adjournment now until tomorrow

(Testimony of Julius Wild.)

morning at 10:00 o'clock. The same admonition I have given you before applies, not to discuss the case or speak with or permit any person to converse with you on any subject of the trial, until the case is finally submitted to you.

There has been an indication from counsel as to when this case will be completed, and I assume that in the orderly course of events this case will reach you at the latest Friday for your consideration and deliberation. All right.

(Thereupon an adjournment was taken until tomorrow morning, Wednesday, August 18, 1948, at 10:00 o'clock.) [514]

Wednesday, August 18, 1948, 10:00 o'clock a.m.

The Court: You may proceed, counsel.

### **JULIUS WILD,**

recalled: previously sworn.

#### **Cross Examination—(Resumed)**

Mr. Campbell: Q. Mr. Wild, during yesterday's testimony you referred to the fact that at all times prior to the time that Mr. Krakauer left your employment that you were in his debt. Can you state at this time how much you owed Julius Krakauer on January 1, 1941? A. I cannot.

Q. What is your best recollection at this time?

A. Well, I was in his debt at all times, so I don't know how much I owed him. I knew I was in debt.

Q. In 1940 you had some losses in connection

(Testimony of Julius Wild.)

with the Santa Anita book, did you not, relative to Seabiscuit?      A. I had some losses?

Q. You had some losses.      A. Yes.

Q. At that time you borrowed money from Krakauer, didn't you?

A. I borrowed money off of him often.

Q. What is the greatest amount you ever owed Krakauer?      A. Krakauer—around \$3000.

Q. Did you owe him that much in the beginning of 1941?      A. I don't know.

Q. What is your best estimate at this time as to how much you owed him then?

A. I have no idea.

Q. Did you owe him as much as \$2000?

A. I don't know.

Q. Did you owe him \$1000?

A. I may not have owed him anything beginning 1940.

Q. I am not talking about 1940. I am talking about January 1, 1941.      A. '41?

Q. Yes.      A. Well, you just said 1940.

Q. Well, at the end of 1940 and beginning of 1941.

A. I don't know whether I owed him anything.

Q. Did you owe him anything?

A. To my recollection I was always in debt to him from the time I employed him, after about eight or ten months.

Q. I am trying to find out how much you owed him then.      A. I don't know.

Q. You can't give us any figure of any kind?

(Testimony of Julius Wild.)

A. No, but if you give me a book I can tell you all my figures.

Q. Are you referring to one of these black books?

A. Black book, note book—it is a ledger. It could be tan [516] or black. You have established it as a black book. Now, we will refer to it as a black book.

Q. Is that one of the books you referred to yesterday; you said you may have had three or four of those books.

A. I may have had fifteen of those books, but you mean '41, '42 or '43?

Q. Yes. A. All right, I had them.

Q. You had three books for that period?

A. I had one for each year.

Q. So there were three books for each period, is that right? A. You are right.

Q. Did you have a record in there of the amount you owed Krakauer?

A. I had a record of everything I owed everyone.

Q. But I asked you if you had a record of what you owed Krakauer. A. Yes, sir.

Q. But at the time Mr. Krakauer left your employment you were paid up to him?

A. Yes, I was.

Q. You didn't owe him anything?

A. Not a cent.

Q. You say during 1941, '42 and '43 you owned



(Testimony of Julius Wild.)

a horse named Silent Julie and its mother, is that right? [517]      A. I did.

Q. I believe you explained yesterday when you wrote this letter to the collector at Los Angeles in July of 1941, that when you said, "Please be advised that I paid Jockey A. Fermin the sum of \$50 in June and the sum of \$50 in July, 1940, since that time I have disposed of my interests in horses and I am no longer connected with racing"—and I believe your explanation yesterday was that you had disposed of a half interest in your horses to Fitzgerald, who was to be responsible, is that right?

A. What Fitzgerald had down there, yes; but that doesn't say that he doesn't own Julie and his mommie. At that time he was a baby.

Q. Silent Julie was a baby?      A. Yes.

Q. Is Silent Julie a male or female horse?

A. He is a horse.

Q. He is a horse?

A. That means a male, and he just win day before yesterday, so he is no hay burner.

Q. Do you still own the horse?

A. I do not. He is nine years old.

Q. So that when you state here, "Since that time," referring to June and July of 1940, "I have disposed of my interests in horses," that is not correct? [518]

A. Do you know, Mr. Campbell, what that is referring to? The horses I had half interest in June and July, maybe that would be the Hollywood

(Testimony of Julius Wild.)

Park meeting at that time, when they were running in June and July at **Hollywood**.

Q. At the time you wrote this letter July 21, 1941, you owned Silent Julie and Silent Julie's mother, is that right? A. That's right.

Q. Now, I call your attention to Defendant's Exhibit G, which are the work sheets for 1942 and '43. On the 1942 sheet there is the name, "Silent Julie—\$800 win—\$1200 cost." Are those the figures you gave Mr. Callahan?

A. Yes, if they are there, I gave them to him.

Q. Well, I call your attention to them.

A. If they are there I gave them to him.

Q. And they are there, aren't they, Mr. Wild?

A. That is 1942?

Q. Yes. A. You was referring to 1941?

Q. I am referring to 1942, this statement.

A. Well, that's right.

Q. And they are there, are they not—"Silent Julie—\$800 win—\$1200 cost"?

A. I take your word for it that they are there.

Q. Don't take my word; just examine the sheet and tell us if it so states. [519]

Mr. Belli: He has testified to that. I think he has answered that, your Honor.

The Witness: A. They are there.

Mr. Campbell: Q. They are there, is that right?

A. Yes, that's right.

Q. Now, in 1943, I call your attention to the sheet from which your return was prepared for that year, "Silent Julie Expense \$1250—purses \$1,-

(Testimony of Julius Wild.)

157.25''. Was that information you supplied to Mr. Callahan?      A. I did.

Q. That was accurate information which you supplied to him, was it?      A. Yes, it was.

Q. During 1941, '42 and '43 you were carrying certain life insurance, both on yourself and on Mrs. Wild, were you not?      A. I was holding?

Q. You were carrying life insurance?

A. Well, life insurance—?

Q. And you also had some for your wife, did you?      A. She had some for herself.

Q. I will ask you if it is not a fact that during the years 1941, '42 and '43 that you paid on account of premiums on those policies the amount of \$901.79?

A. I don't recollect that, at all. In fact, I think the premium was paid up. That may have been premium on the horses [520] that I had insured.

Q. Did you have any recollection of paying on life insurance that amount?

A. If that was paid Mrs. Wild paid it. I did not.

Q. Were those premiums paid by either you or Mrs. Wild during that period, 901.79?

A. For life insurance?

Q. For life insurance, yes.

A. I don't remember that.

Q. I beg your pardon, I gave you the wrong figure.      A. Sure you did.

Q. Let me ask you this: Isn't it a fact that you paid during 1941, '42 and '43 the sum of \$246.60?

(Testimony of Julius Wild.)

A. Now, that would be right.

Q. To the Reliance Life Insurance Company on policy 321085, at the rate of \$82.20 per year, being paid in three payments of January, 1941, '42 and '43?

A. Could you tell me the insurance company, and how big the policy was?

Q. The Reliable Life Insurance Company.

A. \$5000 policy, was it?

Q. Whatever it was.

A. I want to know what I am answering and on what policy, because I sold two or three policies.

Q. Yes, I will furnish that. That is a policy in the amount of [521] \$2500.

A. Reliance—that is Mr. Krakauer, who, I believe, paid them for me.

Q. A 20-pay life policy.

A. Mr. Krakauer, I think, paid them for me out of my money.

Q. And your recollection is that those premiums were paid, is that right?      A. They were.

Mr. Belli: Was that, then, Mr. Campbell, \$246, the total amount in insurance premiums paid during this period of time?

Mr. Campbell: \$246.60, paid in three payments of January, 1941, '42 and '43, at the rate of \$82.20 per year.

Mr. Belli: And the face value is what?

Mr. Campbell: \$2500, and that is for the Reliance Life policy, to which I refer.

Q. Now, Mr. Wild, do you recall during the years 1941, '42 and '43 you and your wife paid to

(Testimony of Julius Wild.)

the Collector of Internal Revenue on account of income taxes the total sum of \$901.79? To refresh your recollection, in the following payments on account of the liability of Emma Wild, February 21, 1941—\$24.40; March 4, 1942—\$32.81; on account of Julius Wild, March 11, 1941—\$97.20; March 10, 1942, \$71.25; April 7, 1942—\$19.41; June 8, 1942—\$99.41; September 4, 1942—\$80.59; September 15, 1943—\$413.19; June 15, 1943—\$63.53, or a total of \$901.79. Do you recall that? [522]

(Addressing Mr. Belli): Do you wish to stipulate to that, Mr. Belli?

Mr. Belli: It is already in evidence without asking him. It is on the return.

Mr. Campbell: No, these are the actual payments received by the Collector.

Mr. Belli: They are on the returns, aren't they?

Mr. Campbell: I will show you the certificate of assessments and payments.

Q. Do you recall, Mr. Wild?

Mr. Belli: Do you have a copy of this?

Mr. Campbell: I think there is a duplicate.

Mr. Belli: I would like to give a copy to Mr. Bougher.

Mr. Campbell: If there is no objection I will offer this as Government's Exhibit next in order, the certificate of assessments and payments of the Collector of Internal Revenue for the First Collection District of California, relative to payments received during 1941, '42, and '43 on account of Julius Wild and Emma Wild.



(Testimony of Julius Wild.)

Mr. Belli: We will so stipulate.

The Court: So ordered.

(The document was marked U. S. Exhibit 17 in evidence.)

Mr. Campbell: Q. Mr. Wild, during 1941 or 1942 did you in connection with a betting transaction receive a diamond ring which was afterwards disposed of, or on which you afterwards [523] borrowed the sum of \$900 in connection with the transaction at Caliente? A. I think I have.

Q. When was that transaction?

A. Sir, there were so many—if you had all mine you would have five or six transactions in them years.

Q. Well, can you give us five or six transactions?

A. It would be hard for me to give you any of them, what time or what date.

Q. What I am referring to is the transaction relative to the diamond ring of the value of \$900.

A. How big was it, please?

Q. For the purpose of refreshing your recollection I call your attention—first, you gave testimony on June 28, 1946, to the special agent: Do you recall that, Mr. Wild?

A. I was twelve hours with him. I certainly do recall it.

Q. Do you recall whether or not you obtained a ring at Caliente on a loan which was not made good by the borrower of \$900 in 1941?

(Testimony of Julius Wild.)

A. What size was the stone, please, and then I can tell you if it is accurate.

Q. I am going to call your attention to this statement initialed by you. Can you read that? It is in very small handwriting.

(Paper handed to witness.) [524]

Do you recall that you did receive a diamond ring on an obligation of \$900? A. \$900?

Q. Yes. A. I remember that.

Q. What year was that, that you received that?

A. I would say that was about 1941 or 1942. I can't tell you the year.

Q. Did you have that diamond ring still at the end of 1943?

A. I may have, but it has been—

Q. How big a stone was that, Mr. Wild?

A. That is what I am trying to get out of you, here. That should be there and I can explain all the transactions.

Q. I am asking you.

A. I don't know which one you are referring to. I know I borrowed the money.

Q. What one were you referring to when you said you received a diamond ring at Caliente in 1941 or 1942.

A. At Caliente when I was booking—and I have to explain that to you—if a player I knew wanted to bet and I knew his credit would be good to a certain amount, if he gave me security I would take it and I would allow him so much, and if he didn't take it out, I would allow him so much, and if he

(Testimony of Julius Wild.)

didn't take it out, it was mine in 30 days. If he took it out, no interest.

Q. This was one that was never taken out?

A. This is 1946 that was not taken out, but I don't know whether you refer to that, or not.

Q. Did you obtain one in 1941 or 1942 which you still had at the end of 1943?

A. That I couldn't answer.

Q. You don't know when?

A. I don't know when, but I had diamonds all the time. Of course, I can't really tell you which one that would be. If I knew the size I could tell you. That may be the stone that Artichoke Joe had in his safe deposit box in that year.

Q. Do you know what Artichoke Joe had in his safe deposit box?

A. No, but he called me to come up and get it.

Q. Was that a stone you had obtained in those years that Artichoke Joe had?

A. It may have been.

Q. Now, what bank accounts, Mr. Wild, did you have on January 1, 1941?

A. Well, to the best of my recollection, downstairs here—I mean at the Whitcomb Hotel, American Trust, and I don't know whether I closed that out, or not, at the Day and Night Bank, or if Mr. Krakauer deposited and took cash.

Q. It is a fact, is it not, as of January 1, 1941, there were two savings accounts at the Day and Night Branch, one joint account and one account in the name of your wife? [526]

(Testimony of Julius Wild.)

A. What my wife had I don't know. We were still on moritorium in 1941 and 1942.

Q. You had your own savings account there in your name? A. I did.

Q. Account No. 220, in which the balance as of January 1, 1941, was \$352.25, is that right?

A. Well, I had it and I can't say about the number 220. I don't know what number my book was, or my account.

Q. But would you say that balance, \$352.25 is corerect?

A. If you have it there it is corerect.

Mr. Campbell: May we stipulate as to that amount, Mr. Belli?

Mr. Belli: We will so stipulate.

Mr. Campbell: All right.

Q. You heard your wife's testimony as to the savings account in her name that had \$3537.25?

A. If my wife told you it was correct, it is, but I didn't know it.

Q. Both of those accounts were closed out prior to December 31, 1943, and you transferred your savings account to the Bank of America at Redwood City, is that right?

A. Sir, Mrs. Wild did—well, that is us in 1943—that is what you are referring to?

Q. Yes.

A. But at no time did I know what Mrs. Wild had in our marriage [527] lives.

Q. All right, sir, but at any rate those savings accounts at the Day and Night Branch were closed out before the end of 1943, weren't they?

(Testimony of Julius Wild.)

A. In the Day and Night Branch?

Q. In the Day and Night Branch, yes.

A. Mine, I think, was closed out way before that, but when Mrs. Wild closed hers out I don't know.

Q. I see, all right. You and Mrs. Wild opened a savings account down at the Bank of America at Redwood City when you moved down there, didn't you? A. I signed some papers.

Q. Yes.

A. And I don't remember even signing that. She made a joint—you know, that account to draw on.

Q. And there was a balance in that account, being account 298 in the amount of \$1992.24, as of December 31, 1943, was there not? (Addressing Mr. Belli) Do you wish to stipulate to that?

Mr. Belli: Any of those figures you have that check.

Mr. Campbell: These are verified figures.

Mr. Belli: I will stipulate to that.

Mr. Campbell: It will save us calling a witness.

Mr. Campbell: Q. Mr. Wild, you had a commercial account at the American Trust Company at the Civic Center Branch, with your balance in that account of January 1, 1941, in the sum of \$142.75?

A. I don't know.

Mr. Campbell: Will you stipulate to that, Mr. Belli?

Mr. Belli: I will stipulate to all of it.

Mr. Campbell: And that that account was subsequently made a joint account in the name of Jul-



(Testimony of Julius Wild.)

ius and Emma Wild, and that is as of December 31, 1943, there was a balance of \$2,108.82. So stipulated?

Mr. Belli: Stipulated. If your Honor please, as I am stipulating as to the correctness of this, if there is anything that you wish to add, that these are not correct, you interrupt the stipulation because I don't want to stipulate to any of this if you have any explanations that are not correct, you understand, Mr. Wild? A. I do, Mr. Belli.

Mr. Campbell: I will represent the figures given are taken from the records of the various bank accounts.

Mr. Belli: Just so he knows what we are stipulating to.

Mr. Campbell: Yes, I understand.

Q. Now, during the period of 1941, '42 and 1943, you and Mrs. Wild purchased certain savings bonds, did you not?

A. You mean Government bonds? [529]

Q. Yes, Government savings bonds.

A. I don't remember buying any in 1941. I bought bonds, that's it.

Q. After January 1, 1941, and you bought some before December 31, 1943? In that period you bought bonds? A. I did.

Q. Is it correct that as of December 31, 1943, the cost price of bonds which were then held in the name of you and Mrs. Wild, either jointly or individually, amounted to \$4,012.50?

(Testimony of Julius Wild.)

Mr. Belli: Our account shows a little more than that, \$4,387.70.

Mr. Campbell: We will accept your figure.

Mr. Belli: All right, take that. We have a lot left over here.

Mr. Campbell: Four thousand and what?

Mr. Belli: \$4,387.70.

Mr. Campbell: All right, so stipulated.

Q. Now, you heard the testimony of your wife yesterday, that the purchase of the house was \$7,500. Is that the correct amount?

A. That is correct.

Q. That was purchased in 1943, is that correct?

A. We moved in the first of April of 1943.

Q. And the full purchase price was \$7,500?

A. \$7500 cash, don't forget that—cash. [530]

Q. Paid for at the time you purchased it?

A. It was paid before we went into it.

Q. Now, Mr. Wild, Julius Krakauer left your employment, as I recall, in September of 1943?

A. That's right.

Q. Around the middle of September, if I am not mistaken.

A. No, it was about the 25th or 27th. It was pretty near the last day of September.

Q. I notice the last card here—yes, the 25th of September? A. That's right.

Q. That was a Saturday night?

A. That's right.

Q. That was on a Saturday that he left you there?

A. I can not recall whether it was a Saturday

(Testimony of Julius Wild.)

or what it was, but that is as close as you can get to the date.

Q. After he left, the operation of the room continued, did it?

A. The operation of the big room may have continued, but not very long. I am trying to get it out.

Q. Yesterday you said that you closed up finally and completely in September of 1944, a year later, is that correct?

A. Well, not the two operations of that room. The front room—when it was closed there was no operation, but I always was in my back room. They would come down the elevator and come to my back door.

Q. Can you state at this time whether or not you continued the [531] operation of what you call the front room during October, November and December of 1943?

A. That I can not remember, I can not recall. The only thing I can recall is that I paid him a salary and took it on myself that they did their duty, and they were entitled to a salary and I can take the beating. Whether I was open or closed, I can not tell you, but I knew they drew the salary.

Q. Was there a raid there at about the time Mr. Krakauer left and you were closed?

A. No, there was no raid when Mr. Krakauer—well, there was a couple of raids just before he left, but they came right in a row, one week and then the next week, but the date I don't know. But

(Testimony of Julius Wild.)

that was not no friendly raid, either, or any tip-off of the raids, what you call them.

Q. That was after he left?

A. No, before he left.

Q. You were never arrested on those occasions, were you?

A. Oh, once or twice I would go up there.

Q. You would go up? A. Sure I would.

Q. On the other occasions some employees would go up?

A. Three or four of them would go up.

Q. What was done: you posted bond or you paid bond, is that correct?

A. No, there was a bond broker there waiting for me. That is [532] where some of that envelope money went.

Q. And they would be waiting for you when you went up there?

A. There was a fellow named Cookie, from McDonough Brothers, that was there waiting for me.

Q. He would be at the station house when you got there? A. With those releases.

Q. And you would go back to your operations the next day?

A. Well, that day we would close and we had—I had in my pocket—whatever the cost was I paid. If there was any boys went up there voluntarily, they got \$5 apiece. That came out of my pocket. That might be—Mr. Campbell, you might find some of those figures XX 45 and 35, that is referring to some of that.

(Testimony of Julius Wild.)

You are bringing me right to the facts of the case.

Q. Those refer to the expenses you had in there with those raids?

A. Some of them are on the raids.

Q. And you would pay them something for having gone up there, is that right? A. Sure.

Q. And so what was done there, the bond was posted and forfeited, is that right?

A. That's right.

Q. You never paid any fine or anything of that kind on those matters, did you, during that period?

A. Did I? [533]

Q. Yes. A. Personally?

Q. Yes. A. No.

Q. Now with reference to your investment in the Jockey Club at Bay Meadows, that was all made prior to 1941, as I understood Mrs. Wild, is that right? A. What Mrs. Wild told you is right.

Q. And as I recall, your initial stock was purchased back at the time the track was being built, back about 1934, somewhere in there, is that right?

A. Well, I purchased some of that six months before they shoveled a dirt shovel.

Q. Incidentally, what was your investment in that, how much was paid altogether for the stock?

A. You mean what was Mrs. Wild's and I investment in that?

Q. Yes, together.

A. First, it was around—now, let's see, I have to tell you two pictures:



(Testimony of Julius Wild.)

First I had a credit with the best friend I have ever had in my life, William F. Kyne, \$12,500 or \$13,000, that is before Bay Meadows because he needed money and so did I. So the result was, when the track was built, he paid me back \$2500. I had to take it \$10,000 in stock.

Q. And that represented what? [534]

A. 100 shares of Bay Meadows, California Jockey Club.

Q. You bought some additional shares afterwards through Mr. Benn?

A. Benn, 10 shares. The reason he had to sell—

Q. We are not interested in that. What did you pay for those ten shares?

A. I think around 60—60 or 65.

Q. Per share, is that right?

A. Either \$600 or \$650 is what I gave him, in other words.

Q. But that was all before 1941?

A. That's right.

Q. During the period here, 1941, '42 or '43, you did not sell any of the stock you had, or buy any more stock, in the Jockey Club?

A. In the California Jockey Club?

Q. That's right, isn't it? You held onto what you had?

A. All I ever done is borrow money on it. No, I never sold it.

Q. That's right. I mean, you did not buy any more?

A. That's all we got, yes.

Mr. Campbell: All right, that's all.

(Testimony of Julius Wild.)

Redirect Examination

Mr. Belli: Q. When you borrowed at various times from these various people, did you tell them that you had this Jockey Club stock and this Orpheum Theater stock? [535]

A. Did I tell who?

Q. The people that you borrowed from.

A. Sure I did.

Q. They did not make you hypothecate it or put it up, did they?

A. Not my friends, no. Julius Krakauer had it once, for some 60 shares he had for security, when he loaned me some \$3,000.

Q. Julius Krakauer was the only one of your very good friends that made you put this up as security, right?

A. That is true. He had to have something.

Q. Now, in the statement that was referred to by Mr. Campbell, that was taken on the 28th of June, you were also asked this question and answered with reference to your taxes—just one line before that:

“Q. Mr. Wild, do you gamble in other forms than horseracing, such as dice, poker, slot machines, et cetera?

“A. Not much of that. When you go on a spree you play everything.

“Q. Is there anything further you wish to add to this statement in order to clarify your income tax liability for the years 1941, '42, '43 or '44,” and you answered—

(Testimony of Julius Wild.)

Mr. Campbell: I am going to make an objection to this, if the Court please, as not proper examination of this witness who is on the stand. He should be asked the direct question. [536] There is no relevancy or materiality here as to any self-serving declarations he made or may have made on another occasion.

I object to this matter being read in this fashion.

Mr. Belli: If your Honor please, part of the statement was read here. I think we are privileged to read the whole statement. I don't care to read the whole statement—

Mr. Campbell: No, I think counsel is mistaken. He was shown a portion of that statement, to refresh his recollection as to a diamond ring, but certainly under this method a self-serving declaration can not be introduced into evidence.

Mr. Belli: It is not a question of self-serving.

The Court: Objection overruled.

Mr. Belli: Q. You were asked about your taxes. Is there anything further you wish to add to this statement—you were being questioned by Mr. Burkett:

“A. It is hard for me to say where I got the money or who paid me. If I had the book, I could tell you. I came up here without any mouthpiece. I came up here clear in my heart. I have done a lot of things, but what man hasn't? I have gone haywire. I have gambled. If I had the book, there might be things I can't recall. If I had my book I could tell you everything.

(Testimony of Julius Wild.)

“Q. It is our understanding that if you find the book you will turn it over to us? [537]

“A. I absolutely would. There is a lot of personal things for you to look over and check up.”

Now, when you went up there on June 28, 1946, and you used this dramatic expression about your mouthpiece, you did not go up there with any lawyer or anyone else, did you? A. I did not.

Mr. Belli: That's all, Mr. Wild.

Mr. Campbell: That's all.

Mr. Belli: If we can call Mr. Burkett, he might be able to straighten up a couple of problems we have in our minds on some figures. Would you take the stand, Mr. Burkett, please?

### WILLIAM BURKETT

recalled; previously sworn.

### Further Cross Examination

Mr. Belli: Q. Now, these cards which the Government has, were the exhibits from which they computed the income tax that Mr. Wild should have paid, aren't they? A. Yes.

Q. Now, these cards are only for the Saturday. They are not for the Monday, the Tuesday, the Wednesday, the Thursday or the Friday, are they?

A. That is not correct, Mr. Belli.

Q. Do you have all the days of the week in here?

A. Yes. The top part is Saturday, the bottom part is a recap [538] of six days.

Q. Well, but you don't have the cards for those

(Testimony of William Burkett.)

six days, the Monday, Tuesday, Wednesday, Thursday and Friday, do you?

A. No, we made that on the week's recap.

Q. All you have is Mr. Krakauer's word of what he put down here?

Mr. Campbell: Just a minute—

Mr. Belli: Q. —that that was correct for Monday, Tuesday, Wednesday, Thursday and Friday, is that correct?

Mr. Campbell: Object to that as argumentative, if the Court please.

The Court: Overruled.

The Witness: There is Mr. Hughes and Mr. Krakauer, and you add Mr. Hughes and Mr. Krakauer together and you get the final amount on the cards.

Mr. Belli: Q. But I take the card on top here. This is Saturday, isn't it?

A. That is Mr. Hughes' writing.

Q. All right, take the whole card. This is Saturday, right? A. The top part is Saturday.

Q. Yes. Now, I turn to this card here, and this is Saturday's card, too, isn't it?

A. That is Saturday's record, yes.

Q. In other words, there is nothing in here of a Monday, Tuesday, Wednesday, Thursday or Friday? [539]

A. Oh, yes, you add the whole total to Saturday's and you get the recap for the week of Mr. Krakauer and Hughes.

Q. Didn't Mr. Krakauer tell you that he kept



(Testimony of William Burkett.)

cards for Monday, Tuesday, Wednesday, Thursday and Friday?

A. So did Mr. Hughes, both of them did.

Q. What did Mr. Krakauer tell you he did with those cards?

A. Just what Mr. Hughes said: They added them and they carried them over to the next day, and that is what Mr. Wild said.

Q. Did Mr. Krakauer tell you he threw those away?

A. Mr. Wild said he tore them up, and Mr. Hughes said he gave them to Mr. Krakauer, and Krakauer to Wild and Wild destroyed them on account of he did not want the police to have them.

Q. Up in the top of these cards, on every one, for the three years, it appears to have the same colored red pencil, in the same handwriting, as you go all the way through, doesn't it? See what I mean: red, same handwriting, all the way through there?

A. I am not an expert in handwriting, Mr. Belli, but I can see that it is red.

Q. For three years in the same handwriting. Let me ask you now, with reference to the totals that you got: The gain for the week was just arrived at by totaling the items—no, I mean the profits for a period, on what you computed that he should have paid taxes; did you arrive at the profit by totaling the items "Gain for the Week" shown on these cards? [540]

Do you understand what I mean on that?

(Testimony of William Burkett.)

A. I did not get your question, Mr. Belli.

Q. Very well, I want to be clear on this, too. I am not very good at figures or computations myself, but I want to be certain we have gotten your method of computing the taxes here.

In order to get your net profit that you say that he had, from these cards, did you arrive at that by taking the items "Gain for the Week," for all of these cards here, and adding them all up?

A. Well, we had the gross take, the total bets placed on these cards every day, then we add your operating expenses, including pay-offs, they are on there.

We had Wild's salary or his drawings which are on those cards.

By taking your operating expenses and subtracting them from your gross take, why, you get this for his salary, which is really net, and you get the profit or loss for the week.

Q. Well there is a difference in here of some \$14,000 between my computation and yours. So that we will be clear on this—maybe the way we have gone at it—on these cards there is an indication of how much was taken in, let's say \$100. Then there is an indication of various items of expense, salary, rent, janitor, pay-off and the rest of it.

Let's say that came to about \$50, all of the items of expense on the card, as indicated. So I understand you then [541] subtracted from \$100 the \$50, as was done by the man who computed the cards,

(Testimony of William Burkett.)

and that would give you then the \$50 profit on that card.

You would take that \$50 profit, and do the same with all the rest of the cards, and get a cumulative total of all of the cards here, taking everything that came in, and all expenses, taking them out, as indicated on the cards, and the result would be the figure that you arrived at as Mr. Wild's profit on which he should have paid taxes.

Mr. Campbell: I object to two matters: first, I object to counsel's statement that there is a \$14,000 difference between our computations, there being no such computation in evidence here.

Mr. Belli: We will withdraw that and prove that.

Mr. Campbell: Secondly, I object to the question itself as being unintelligible.

The Court (To the Witneess): Do you understand the question?

A. I would say it is unintelligible, but I can understand one thing that is left out, is the losses. Sometimes the weeks he would lose altogether, you have to deduct that, but the question is pretty vague itself.

Mr. Belli: Let's put it on the board so that there will be no question on it. May I, Your Honor?

The Court: Yes. [542]

The Witness: Why not just take a card and let's work out one card.

Mr. Belli (At the blackboard): You have got cards to start with here, for three years, haven't you?

(Testimony of William Burkett.)

A. Yes, with the exception of one year, there is only nine months, and in 1941 you have only ten months, taking the profit and loss for ten months. In 1941 and 1942 you referred to all twelve months here, and in 1943 we are only taking nine months, so it is not all three years.

Q. But in any event, these are the cards from which you computed Mr. Wild's taxes, is that right?

Mr. Campbell: That is objected to. This witness has not computed taxes. He has computed the income from these cards and the profits on those cards, but not the taxes.

Mr. Belli: I understand the taxes are paid upon income, am I right?

(No reply.)

Mr. Belli: Q. Let's take the card as it appears: let's say that you have \$100 there.

The Court: The witness suggested, Mr. Belli, rather than take the hypothetical figure of \$100, that you accept one card, and work from the card. I think that would be easier for the Court as well as the jurors, if it is agreeable in your examination. I am not attempting to limit you at all.

Mr. Belli: I thought I would do it this way, and then the [543] other way will be a lot simpler. We will try it anyway.

Q. Here we have \$100, so let's say that was what was taken in, right, during the day?

A. You mean gross total bets placed?

Q. The same as a cash register in a grocery store, yes. All right, then let's say Julius paid out,

(Testimony of William Burkett.)

on bets, around, let's say, \$30. That would be a pay-out on bets. I am going to give him a gain on this day's business here. He paid out \$30 on bets. He had \$10 to pay off, and \$5 for janitor, and \$10 for another item on the card, and we are assuming here that we have taken every item that appears on the card, by the man that made up the card, as deductible items.

In other words, whether it was paid off or whether that is deductible or not, whether the lights and gas and oil and the rest of that was deductible or not, the man, on the card, deducted those, so we are going to do the same way that he did.

This is what came in, \$100, and this is what went out, whether pay-off or Greek relief or anything else you want to call it, including the bets that he paid out.

So you have \$55 paid out.

Then for that day he had a gain of \$45, right? I mean, is that roughly the way it was done here, and is that the rough way you computed it?

Mr. Campbell: We object to that. The record speaks for itself. [544]

The Court: I will allow it.

Mr. Belli: To me it seems so simple. Do you follow that point?

A. Yes, if you get everything there, if I understand your question, that all expenses are in there, including his salary, on the income side, and all on the outgo.

Mr. Belli: Yes.

A. \$55 from \$100 is \$45.



(Testimony of William Burkett.)

Q. Anything you have there, if it is paid out, whether it is pay-off or anything else isn't that right? A. Everything on the card, yes.

Q. Then you take that off from the bets and you paid this much out, \$55, is that right?

A. Yes.

Q. And that left him \$45? A. Yes.

Q. If you would go through all of those cards, out of the total that you got, were the totals of gain or loss comparable to this sum for each of the Saturdays on these cards? You did not reconstruct any cards for a period that was not available by cards, did you?

A. As I said before, Mr. Belli, we verified that Saturday, added to the Friday total, to make the bottom weekly recap card.

That was Mr. Hughes' testimony, Mr. Wild's testimony and [545] Mr. Krakauer's, that that was their system, so that is what we had to go by.

There were a few minor errors in addition, but it came out that the final computation as reported from those cards, as I testified the previous day, would be correct.

Q. Let me ask you my question again:

You did not reconstruct any cards for any periods that were not here? There were some periods that were not here? There were some periods for which there were no cards?

A. That's right, Mr. Belli.

Q. You did not reconstruct them?

A. No, they were gone.

Q. You only took the actual cards?

(Testimony of William Burkett.)

A. Yes, sir.

Q. And you went through the cards for each Saturday, of the number of cards that you had there? On your adding machine tape you had whatever sum was, that was taken in, plus the expenses, which would give you a figure, and that figure would be gain or loss for that week, that Saturday, wouldn't it?

A. There are two figures, one at the top half of it, and one for the week at the bottom. We verified both.

Q. Then you would add all those together, so the total profit would be the adding together of all of the figures on each of the cards, showing the gain or loss, right?

A. Yes, and sometimes we would subtract, where he had lost a [546] week, and we gave him a loss on that.

Q. And that gave you those figures in your exhibit here? That would give you the figure of \$16,932 for 1941, \$34,001 for 1942 and \$30,653 for 1943. Am I right on that?

A. Yes, and we would not allow the pay-off, so the correct total is that.

Q. But the top figure here, this one in this exhibit by the Government, No. 13, these figures here, \$16,000 and \$34,000 and \$30,000, those are with all of the deductions that were taken by the man who computed the cards, is that right?

A. That's right.

Q. You are sure of that?

(Testimony of William Burkett.)

A. Well, there is no doubt if your question—if there is nothing hidden in there, it is the exact answer.

Mr. Belli: You are the one to take the question and ferret out anything hidden.

A. Well, read it, please.

Mr. Belli: You read it to him, Mr. Reporter, and if you have any question or any doubt, you ask me the question, because I am going to put my accountant on the stand. Maybe you can help me out on it, if I haven't done it the right way, or if we haven't got the right computation here.

A. The computation is correct. The explanation of it, I will be glad to give you again.

(Thereupon the question was read by the Reporter.) [547]

A. I don't understand your question, Mr. Belli.

Q. Well, I am taking the same language that you had in Government's Exhibit 13. You had "net profit from horse race business after deducting all expenses."?

A. Yes.

Q. Maybe we can approach it this way: What does that mean, "after deducting all expenses?"

A. That means all operating expenses. In detail, that means papers, run-down sheets, forms, radio, janitor, salary—the salary for the other employees. We did not allow Mr. Wild's salary on it. We put that in as income.

Then the profit, after paying out all the bets, the losses, we arrived at the weekly net profit that

(Testimony of William Burkett.)

is reflected in this exhibit that you have just shown me.

Q. When you say here, "after deducting all expenses," you did not deduct all the expenses?

A. It did not give him the pay-offs.

Q. Well, you say that you did because down here—

A. No, we added the pay-offs to it (indicating).

Q. But up above it, on this schedule, you included the pay-offs at the cost of doing business, didn't you?

A. You are referring to one part, but the total net profit is at the bottom of the page, \$17,982 for 1941; total net profit, \$35,261 for 1942, and total net profit for 1943, \$31,598. [548]

Q. All right, now there is a figure here of \$16,932 for 1941 and \$17,982 for 1941.

They are both for 1941, but the smaller figure of income is arrived at by allowing him the amount of money that he paid for pay-offs, isn't it?

A. I cannot see what you are referring to there. Mr. Belli: I am sorry. (Indicating)

A. We didn't—the top part of this exhibit—apparently he thought payoff was an allowable expense, and as was explained to him before, we do not allow, as public policy, the protection thing, so we took that figure and added on \$105 a month for every month that he was operating. That is how we reached the total net profit.

Q. I understand. So this figure here then at the top of the page, this computation of \$16,932

(Testimony of William Burkett.)

for 1941—have you got that? A. Yes.

Q. Then for 1942 there is a total of \$34,001 (Indicating), then your \$30,653 for 1943. Those three totals are for 1941, 1942, and 1943.

The total net profit which you have indicated in those three columns there, you arrived at by giving Mr. Wild all of the deductions that were given to him by the man who computed the cards, including payoffs and everything else, is that right? [549]

A. That is including payoffs, which we did not allow.

Q. I understand that—because down at the bottom you computed it higher when you did not allow the payoffs. Do I understand then, that even on a venture like this, and I use the vernacular, Uncle Sam is in partnership with the bookmakers, and as we have elicited, and apparently it is necessary to pay off in order to run one of these businesses, and yet Uncle Sam does not allow the expenses for the payoff in order to keep the business running.

Mr. Campbell: I ask that the statement of counsel as to partnership in the bookmaking business be stricken and the jury ordered to disregard it.

Mr. Belli: Well, whatever you want to call it.

The Court: The objection to the question is sustained. We will take the recess. Mr. Witness, in the interim during the recess, if there is any explanation you desire to make, or any interrogation regarding the figures, is that what you call a breakdown of the figures, isn't that right? A. Yes.

Q. An arithmetic computation?



(Testimony of William Burkett.)

A. Yes, sir.

Q. The figures, in terms of computation, merely demonstrate—as I understand it, and I am trying to understand it as well as the jury—the fact that the Government failed and refused to allow the items or the sums paid off for protection, [550] and added those sums to the ultimate figure showing the net, is that your understanding?

A. Yes, sir.

Q. And that is all the sum and substance of the examination, is that correct?

A. That is absolutely right.

Q. Have you anything to add to this so at this juncture the other jurors may understand it, for we are dealing with many other figures here.

A. No, sir.

Mr. Belli: May I suggest, your Honor, respectfully, that if the jury have any questions to ask the witness—

The Court: Have the jurors any questions at this juncture? In all fairness, in cases involving arithmetic, computations, and the like, with many exhibits, the jurors may be misled. It is very often possible for Courts to be misled. The human machine, the brain, can only assimilate so much of the time, and the trial of a case is not any exact science, as you have found.

Do you have any questions concerning the examination made of the witness on the stand in connection with arriving at the figures showing net income?

(Testimony of William Burkett.)

A Juror: I would like to ask about that \$105, if that net \$16,000—whether that had been taken out? A. That is correct. [551]

The Juror: And then afterward, having then added it back, is that right?

The Court: Yes—is that correct?

The Witness: Yes.

The Court: You explained how in the breakdown you took all of the figures: for the purpose of the original computation, you allowed it in, did you not?

A. Yes, when we were adding up the cards, we in a sense allowed it, up to a point, and then we came along, and as public policy did not allow protection money, we put on \$105. Because the witness paid out this money, they thought, as a protection expense, so that in the final computation, you are correct that that is the total net profit for the year.

Mr. Belli: I think, in fairness, I should say this, that even with that—in answer to the juror's question—that even with the protection money allowed as a deduction, it would still show, at the present stage of the case, that Mr. Wild's estimate was less than what it should have been.

Mr. Campbell: I ask that the jury be instructed to disregard that statement of counsel, that it is not supported by the record here, and that it is entirely out of order.

The Court: The jury is instructed and admonished to disregard that statement of counsel. There

(Testimony of William Burkett.)

is one other correction here: that hereafter perhaps a construction might be placed on your testimony that might not go justified, when [552] you say you allowed \$105 in the first instance in your computations, you merely intended to convey to the Court and the jury, I assume, that in the computations from the cards, as you went down the cards, you allowed, as integrated in your computation, the sum of \$105?      A. That's right.

Q. But in no legal sense did you allow \$105, is that correct?      A. That's correct, absolutely.

Q. So that the word "allowed" is used in that sense?      A. Yes, sir.

The Court: Now we will take the recess. Do not communicate with anyone or suffer or permit anyone to converse with you on the subject of this trial until this case is finally submitted to you for consideration.

(Recess.) [553]

The Court: You may proceed.

Mr. Belli: That's all I have, Mr. Burkett. Thank you very much.

Oh, just the one further thing that you called to my attention and that I almost forgot:

Q. You did not include, did you, that Mr. Wild charged that salary, his own salary of \$10 a day. You didn't include that in your computation on the top part of Government Exhibit 13?

A. If you are questioning me as to how I arrived at the total for the year, as I explained before, the payoffs of \$105 for 10 months, for example

(Testimony of William Burkett.)

1941, were not allowed. There is \$1050 and the cards themselves show a net of \$13,539, for example for 1941 and thence Mr. Wild's own salary \$3393, which he threw back into expenses. It is not expense, it is a profit to himself. So, adding up \$3393 as salary and expense as reflected by the cards, \$13,539, and the payoffs of \$1050, would be a total net for the year profit of \$17,982, out of the entire gross receipts of nearly half a million.

Q. Specifically, in answer to my question you didn't include the salary Mr. Wild paid of \$10 a day to himself when you arrived at the top figures of Government Exhibit 13?

A. The top figures of the day, Saturday, and the bottom is the recap of Mr. Hughes—

Mr. Campbell: Are you talking at cross purposes? Are [554] you referring to the card and exhibit, and is the witness referring to the card and exhibit as to the "top figures"?

Mr. Belli: No, this is Government Exhibit 13.

Q. Am I correct in this, Mr. Burkett, that nowhere in Exhibit 13 was Julius' \$10 a day salary allowed?

A. Your total for the year, take 1941, is \$17,982, is that right?

Q. Yes.

A. That is made up of \$1050 for payoffs that were not allowed, and expenses \$13,549 as reflected by the cards and also if you add up the cards you will find in addition \$3393 for salary; and so his entire net profit to himself, take-home, is \$17,982.

(Testimony of William Burkett.)

Q. Let us come around backwards and approach it this way: the bottom figures on Government Exhibit 13 disallow protection payments and disallow and dollars paid to himself—right or wrong?

A. We allowed the profits.

Q. But it is disallowed to him as a deduction?

A. Yes, disallowed as a deduction.

Mr. Belli: That is all. Now, if you have any further explanation of anything here that was not clear, I give you carte blanche to make it. [555]

Redirect Examination

By Mr. Campbell:

Q. As to the method you use, we will take as example this card number 1 of Government Exhibit number 7, the first card in the three groups. There is set forth on this certain expenses, isn't that correct?

A. Yes, sir.

Q. And those expenses are deducted from the day's profit to arrive at the net profit for the day, is that right?

A. That's right.

Q. And there is accumulated on the bottom of the card a profit for the week, is that correct?

A. Yes.

Q. However, before arriving at that profit for the week there has been also deducted as an expense the \$10 a day paid to Mr. Wild, is that right?

A. Yes.

Q. And there has also been deducted in arriving at that net profit the \$185 a month to which reference has been made, is that correct?

A. Yes.



(Testimony of William Burkett.)

Q. So in arriving at your monthly figures here, the figures here, for example, for January 1941, for \$1474, is the profit shown by the cards including the salary paid to Mr. Wild, is that right?

A. That's right. [556]

Q. And for the year the \$16,932, that is the same, is that correct? A. Yes.

Q. Although, Mr. Wild on these cards shows a salary and takes it as an expense, is that right?

A. That's right.

Q. So, your sum of \$16,932 is allowing every expense which is claimed on these cards except the salary to Mr. Wild? A. That's right.

Q. At the bottom you have taken your figure \$16,932 and you have disallowed the expense of \$1050 paid in 1941 for so-called protections, is that correct? A. That's right.

Q. So that the correct year's net profit which you have found due Mr. Wild is the sum at the bottom of \$17,982, is that correct?

A. That's right.

Mr. Campbell: That's all.

Mr. Belli: Thank you, Mr. Burkett.

The Court: Did you ever attempt to rationalize or effect a breakdown between the report as submitted by Mr. Wild and go over the figures, to work out a comparative analysis?

A. Percentage net profits versus the amount of gross bets placed, you say sir? [557]

The Court: Q. That might be illuminating. What would that run? About 7 percent?

(Testimony of William Burkett.)

A. We figured his gross receipts or total bets placed was nearly half a million, or \$386,101, and his salary, net payoff, would be about 41½%.

Mr. Campbell: Q. Would that run constantly, each year, Mr. Burkett?

A. That is 1941. In 1942 the gross play—

Q. No, the percentages. A. Six per cent.

Q. And in 1943, what would it run?

A. In 1943, 6 per cent.

Mr. Belli: Q. Does that mean he made six per cent on his business?

The Court: Q. On the gross turnover?

A. On the gross turnover versus the gross play.

The Court: Q. So that the Court and the jury may understand the difference between the figures as braced in the return submitted by the defendant and his wife with the ultimate figures as compiled by you, the differential is comprised of items, no doubt? A. Yes.

Q. Could you particularize those items?

A. Well, the revenue agent that computed the tax from the return here could. If I had the returns, I could do it, but [558] I don't have them before me.

Mr. Belli: I thought there was an exhibit on that.

Mr. Campbell: It is a matter of addition and subtraction.

The Court: So that the jurors and the Court may not be misled, references made to the payoff items, so-called protection money items, as well as the salary, are there other items therein included above and beyond those two?

(Testimony of William Burkett.)

A. In expenses?

Q. Yes, sir.

A. Yes, sir. The expenses take in everything—soap, forms, radio, janitor, sheets, salary, papers, the loud-speaker system, rents, right, and everything that went into operating the place. In fact, we gave him the benefit as to these lawyers' fees, these raids and so forth, bail and what-not of double X's. We only took the \$105 payoff.

Mr. Campbell: Q. Possibly we can get at it this way, Mr. Burkett: Will you state with reference to Government Exhibit Number 1, the 1941 return of Mr. Wild, the amount he reported as net profit from business?

A. He reported in 1941 net income of \$3398.50.

Q. I am referring to the net profit from his business.

A. The net profit from his business is \$2370.

Q. What did you find his net income from business to be as computed by you on Exhibit 13? [559]

The Court: Based upon the cards in question.

Mr. Belli: Yes.

Mr. Campbell: Yes.

The Court: And they are not based on any other fact or factors—just **the cards**.

Mr. Belli: No, the cards don't include anything else.

The Court: All right.

Mr. Campbell: Q. I hand you Government's Exhibit 13 for ready reference. What do you find

(Testimony of William Burkett.)

his net income to be as reflected from the cards as you testified as having examined?

A. \$17,982.

Q. For 1942, referring to Government's Exhibit 2, what did he report his net income to be?

A. His net profit from his business he reported as \$4998.36.

Q. As reflected from the cards, Government's Exhibit No. 8, what did you find his net income from such to be? A. \$35,261.

Q. And as reported by Government's Exhibit No. 3, the return for 1943, what did you find his net income from business that he reported?

A. Let's see, dividends—income—\$5268.23.

Q. And as computed by you from Government's Exhibit 9 the cards with reference to 1943, what did you find his net income from business to be?

A. \$31,598. [560]

The Court: Now, there are 12 cards that have been referred to during the course of the testimony that Mr. Callahan had.

Mr. Campbell: Yes, your Honor.

The Court: Where are those 12 cards?

Mr. Campbell: The evidence here is that they were shown to the revenue agent, having been given to Mr. Callahan, and Mr. Callahan said he brought them back to the place of business after showing them to the agent, and that is the last he ever saw of them.

The Court: Is that the end of the 12 cards?

Mr. Campbell: Yes.

(Testimony of William Burkett.)

Mr. Belli: Yes, that is the end of the 12 cards.

The Court: Where are they?

Mr. Campbell: They disappeared. The last time they were seen was when Mr. Callahan brought them back to the place of business after having taken them in to substantiate these figures.

The Court: Those cards, according to the testimony of the witnesses, the expert witnesses who have taken the stand, in this case, assumed to fortify the '41 or the '42 return?

Mr. Belli: The '41 return.

Mr. Campbell: May I make this correction?

The Court: Yes.

Mr. Campbell: Not according to this witness.

Q. Did you ever see the 12 cards?

A. No, sir.

Mr. Campbell: It was the testimony of the revenue agent who was making the examination of the 1941 return and who requested records to be brought in. He said he examined the 12 cards and checked them, and they substantiated the 1941 return.

The Court: They substantiated the 1941 return in the amount of how many dollars?

Mr. Campbell: Which reports a net profit from business of \$2370.

The Court: As compared to the figures delineated this witness of how much?

The Witness: \$17,982.

The Court: Is that revenue agent in court, the man that actually saw the cards?



(Testimony of William Burkett.)

Mr. Campbell: That was Mr. Lippert. He is not here this morning, but can be produced.

The Court: But there is no question about that?

Mr. Belli: There is no question about that, but to be clear on that, the 1942 records that Mr. Callahan brought up here were these work sheets that are in evidence.

The Court: Yes.

Mr. Belli: And for 1943 these work sheets were brought up that were in evidence. The 12 cards only pertain to 1941. [562]

The Court: Yes.

Mr. Campbell: There should be no confusion on that. These were brought up in the present investigation. Mr. Lippert was involved in the investigation of 1941, and these records, particularly the second, could not have been in existence at the time of Mr. Lippert's examination in 1941. They were produced by Mr. Callahan and the evidence shows with relation to the present investigation.

The Court: That is your inference.

Mr. Belli: Just for the recapitulation.

The Court: But I merely wanted to recapitulate some of the evidence thus far adduced to the end that loose ends may not prevail at the end of the trial. You gentlemen of course are trying your own case.

Are there any further questions of this witness?

Mr. Campbell: No.

Mr. Belli: No.

The Court: That's all.

A. L. BOUGHER,

called as a witness on behalf of defendant; sworn.

The Clerk: Q. Will you state your name to the court and jury? A. A. L. Bougher.

Direct Examination

Mr. Belli: Q. Mr. Bougher, at my request you have gone [563] over some of these cards that were introduced by the Government?

The Court: By the way, will you examine his qualifications?

Mr. Belli: Yes, I am going to, but I was just going to put one question as to the investigation.

Q. You examined these cards, seven, eight and nine? A. I did.

Q. Before I ask you about those, I will ask you a little about yourself so the jury will know who you are. You are a public accountant in California, duly licensed to practice here, are you?

A. I am.

Q. And you specialize in tax work, do you?

A. To some extent.

Q. And you have your offices presently with me at the top floor of No. 240 Stockton Street, is that right? A. That's right.

Q. You do my tax work and my records in my place? A. Yes.

Q. You have looked at these exhibits in court, here, and you have made some computations on them, have you?

A. The computations were based originally on photostatic copies, but I have scrutinized these as well.

(Testimony of A. L. Bougher.)

Q. How did you make your computations for your totals of [564] your net profit for the three years—solely from these cards here of items, and what items did you take into consideration and what items did you add?

A. The bottom half of the one side of the card—

The Court: I think if he takes the card it would be better.

Mr. Belli: Yes, hold that up and point to it so the jury can see it, or take these apart again, sir. This No. 10 is all the same, is it, Mr. Campbell?

Mr. Campbell: Yes, those are only for identification.

Mr. Belli: These are the ones you showed for identification?

Mr. Campbell: Yes, No. 1 For Identification.

The Court: Are those the photostats?

Mr. Campbell: Yes.

The Court: Allow the jury to have them.

The Witness: I can work from this one card.

The Court: Q. You can work from this one card? A. Yes.

The Court: That will serve you as an example?

A. Yes.

Mr. Belli: Then I will show these to the jury.

Q. You have one in your hands there now?

A. No, but I can take the original.

Q. You have yours? [565]

A. No, there is one on the table, there.

Q. We are going to refer first to the side that has "DR" and "Credit" there, and a big "T" over on the left, is that right? A. Yes.

(Testimony of A. L. Bougher.)

Q. Now, go ahead and explain what you took into consideration in making your computations. I better ask you this question so I can see where we are driving, what we are driving at. Mr. Bougher, there was a difference in your computations from the computations of the Government on their Exhibit 13? A. There was.

Q. Now, tell us how, first, you arrived at your computation and we will find out what the difference was.

A. The bottom section of the side of that card, according to my understanding, purports to be—

Mr. Campbell: Pardon me, I have an extra copy.

The Witness: All right, thank you. In the right-hand column these figures purport to represent a weekly total of the various items and that marked “B” carried forward—

The Court: Just a minute, where is that mark “B”? A. On the extreme left of the card.

Mr. Belli: Below the double line there is a “T” and “E” and “B”. A. Yes.

The Court: Q. All right, that is on the left-hand side of the card? [566] A. Yes.

Mr. Belli: Could I ask your Honor or the jury, if they don't follow anything to call it to my attention.

The Court: We want this to be carefully followed, ladies and gentlemen.

Mr. Belli: Q. Go ahead.

The Witness: A. My understanding that the “B” stands for “Book”, meaning the business or

(Testimony of A. L. Bougher.)

balance of the cumulated total for this particular week. And \$145 plus \$43, which you will notice above, represents the gain for the day.

Q. Now, stop right there. When you say "You will notice above," you have to go up above the double line and you see a word that looks like "Tot gain." A. Total gain.

Q. And then a "Day" and then a dollar sign and a "43". A. Yes.

Q. All right, you take the 43 down and add that across from the "B", the \$145, is that correct?

A. That's correct.

Q. Now, going over to the right, across from the "B".

A. As I understand is \$188, but to my understanding purports to be the gain for that week. In making my calculation I totaled those items on the various cards marked "Gain" or "Loss"—"G" or "L".

Q. In other words, as I understand it, on the one you have a [567] "G" across from the "Bock", which indicates, and I am showing you here No. 9, and here is a "G-475", and here is a "L" and here is a "279", across from the letter "B", and then, "226-L" and then there is a "506" or "565" across from "L". That would be the loss, as you computed it? A. That's right. [567-A]

Q. Tell us what you did with the computation of all of those figures, in the card where it says "G" or "L".

A. They were totaled from the summary sheets that you have.



(Testimony of A. L. Bougher.)

Q. This is your summary sheet? I want to show it to counsel before you testify.

A. That's right.

Q. I will show you a piece of paper, which I offer next into evidence. Will you tell us what the net profit shows?

A. My totals of the net profit, as projected on these cards, for the year 1941, are \$14,029.

Q. \$14,029—wait a minute. 14,029, is that right?

A. That's right.

Q. And you got that by adding up all the gains or losses in that one column, that's the only thing?

A. That's right.

Q. And what was Government's for that year?

A. \$16,932.

Q. All right. Now how about 1942?

A. My total is \$26,412.

The Court: 1942?

Mr. Belli: I am sorry, 1941 was \$14,000. 1942 was what? A. My figure is \$26,412.

Q. And the Government's? A. \$34,001.

Q. All right. Now, 1943. [568]

A. \$26,918 is mine.

Q. Yours was \$26,918? A. Correct.

Q. And the Government's?

A. \$30,653.

Q. And no cents?

A. That's right. Do you want those differences?

Q. Yes. A. For 1941, \$2,903.

Q. How much was the total difference for all those years? A. \$14,227.

(Testimony of A. L. Bougher.)

The Court: How much for 1942?

A. \$7,589 for 1942, \$3,735 for 1943, making a total amount of \$14,227.

The Court: \$2,903 difference for 1941?

A. Correct.

Mr. Belli: Q. In your computation, before you show us any cards, did you note any cards, or have you any records there where you yourself found arithmetical errors through these cards?

A. I found so many of them that I did not count them all.

Q. What was the nature of the errors?

A. Additions, largely; errors of commission.

There were errors of omission in there on many of the cards. The expenses on the reverse side were not totalled. [569]

Q. Could you tell us what you mean by that?

A. Yes; on the reverse side of the card, the other side, which we were just studying, the expenses of the day are listed. They are not totaled there, but what purports to be the total is carried over to the face of the card as letter "E" up at the top. The third item down, the letter "E" purports to represent the expenses for that day.

Q. You say they were not accurate?

A. Yes, sir, I have checked it.

Q. Did you check other ones as to their accuracy? A. I did.

Q. How many of them did you find were not accurate?

A. To the best of my knowledge, one.

(Testimony of A. L. Bougher.)

Q. How many other ones—

A. I did not even make a comprehensive list of them.

Mr. Campbell: Did you say only one was in error? Will you read that answer, Mr. Reporter?

(Answer read.)

Mr. Belli: Q. To the best of your knowledge, one was inaccurate? A. Correct.

Q. On how many others did you find items of inaccuracy? A. Well—

Q. Could you dig some of them out during the noon recess?

A. I could very easily. Card No. 13 of 1941.

Q. All right, let's take that one.

A. These are the 1942 cards I have here.

Q. Card No. 13 of 1941, what about it?

A. If I could see the cards, I could dig that out for you.

Mr. Belli (Indicating): So the ladies and gentlemen of the jury will know, we are now going away from this card that we have been looking at up here, and going into other cards.

A. Cards of similar types.

Q. Card No. 13 of 1941, what about it?

A. The expenses listed on the reverse of that card are not totaled herein, but they do add to \$42.15.

The amount carried forward and reflected in that day's operations is \$59.15.

Q. And the difference there? A. \$17.00.

Q. Go ahead. By the way, whose handwriting is that in?

(Testimony of A. L. Bougher.)

A. Well, the expenses, to the best of my knowledge—I would not care to be—

Q. It is at the bottom or the top of the card?

A. It is at the top of the card.

Q. All right, go ahead.

The Court: Is that card No. 13?

The Witness: Yes, your Honor.

Mr. Belli: Go ahead. Could you ferret those out during the noon hour? [571]

A. There are not enough of them.

Mr. Belli: It is about time for the recess, your Honor. He might be able to do that. Then you have a net worth system here that you computed for Julius' audit, haven't you? You have computed the net worth here, haven't you? A. I have.

Q. Does that show an overpayment or an underpayment?

Mr. Campbell: That is objected to, if the Court please, no proper foundation laid.

Mr. Belli: We will show the payments and the rest of it then, after the recess, your Honor.

The Court: Very well.

Mr. Belli: Does your Honor see what he speaks of?

The Court: Yes.

The Witness: On Card No. 14—

Mr. Belli: Wait a minute.

The Court: We will take the recess, ladies and gentlemen of the jury. The same admonition. Appear at 2:00 o'clock, please. Do not communicate with anyone or suffer or permit anyone to converse

(Testimony of A. L. Bougher.)

with you on the subject of this trial until this case is finally submitted to you for consideration.

(Thereupon an adjournment was taken until 2:00 o'clock p.m. of the same day.) [572]

Afternoon Session, August 18, 1948, 2:00 p.m.

Mr. Belli: We will resume then with Mr. Bougher, your Honor?

The Court: Yes, the jurors are present. You may proceed.

**A. L. BOUGHER,**

recalled; previously sworn.

Direct Examination—(Resumed)

Mr. Belli: Q. Mr. Bougher, could you prepare me an audit from those cards?

A. Did you say could I?

Q. Or did you, or could you?

A. I did not and I wouldn't attempt to.

Q. Why is that?

A. Because I find them so utterly lacking in completeness and I would place so little reliability on the results that they purport to show.

Mr. Campbell: I ask that the last be stricken as not responsive to the question and a characterization and opinion.

The Court: Motion denied. This man assumes to qualify as an expert, I suppose, does he not?

Mr. Belli: Yes.

Mr. Campbell: Very well.

Mr. Belli: Q. I will tell you what let's do: Let's take [573] the card, the Government's own



(Testimony of A. L. Bougher.)

exhibit for which they had twelve prepared, and I want you to show me if you can find me an errors of mathematical computation on this exhibit of the Government. And, again, I would like to pass these out to the jurors. Just take your time when you go through them, so we can see exactly what we are talking about.

The Court: This is card No. 12?

The Witness: Card No. 1 of 1941.

Mr. Belli: Card 1 of 1941.

The Witness: Yes.

The Court: The photostatic copy of which I have, sir.

Mr. Belli: Q. Now, do you find an error of \$25 on that card?

A. There would appear to be one.

Q. Let's see what you find on it, then.

A. On the reverse side, on the front right hand corner we have a figure of \$226.20, from which is subtracted \$50, leaving \$176.20. Now, that \$50, one would from the card assume to be a payment made to Julius Wild.

Q. Why do you assume that?

A. It is intimated in one case on that same side of the card at the bottom.

Q. Down where it says \$50?

A. Yes, marked "Dr." over on the face of the card.

Q. On the other side of the face? [574]

A. Yes, where it says Debit and Credit, "Dr." and "Cr." there is \$120 plus \$50, which is extended

(Testimony of A. L. Bougher.)

as \$170, and which I am given to understand, or my understanding is that that represents the drawings of Julius for that week.

Q. Now, that is under what line—wait just a minute, now, so we will be clear. Below the double line it is the fourth line?

A. Yes, the fourth line.

Q. The “T” the “E” and the “B”, and under that there is “Dr.” and “Cr.”

A. Yes.

Q. All right, 170 there.

A. Yes.

Q. All right.

A. Back on the reverse side we are down to a figure of \$176.20, to which is added a figure of 43, making 219.20.

Q. Where did that 43 come from?

A. That 43 would appear to be and obviously is, the total gain of the day as shown on the face of the card.

Q. On the other side of the card between the two double lines where it says, “Total Gain” and it says “\$43”?

A. Yes, where the total paid out is deducted from the total take.

Q. Now, take that 43 and turn over the card and you have 43 under 176.20?

A. That is obviously a computation of the cash handled by [575] some one individual in that room for that day as a further summarization on the face of the card again in the center of the card, it distinctly says, “N 219.20.”

Q. That is under the word “Total gain”?

(Testimony of A. L. Bougher.)

A. Yes, meaning at the end of the day they had \$219.20, which agrees with the figure.

Q. \$219.20 on the back of the card?

A. Which we have arrived at.

Q. Yes.

A. Again on the face of the card immediately under "N" it says, "Start". Presumably it means the cash on hand at the beginning of the day, which is 201.20.

Q. Yes.

A. Well, if on the face of the cards it says there is \$201.20—

Mr. Campbell: Just a minute, I don't see that, if the Court please.

Mr. Belli: We want to be sure we are right.

The Witness: On the face of the card it says "Start".

Q. Let me see. Hold that up. You are looking at the face of the card, that is, there are double lines on the face and you said \$219.20. Now, where did it say "Start" you referred to?

A. Immediately below that?

Q. Right here? A. Yes. [576]

Q. It was \$219.20 here? A. Yes.

Q. Now, go ahead there.

A. It says quite plainly, "Start 201.20."

Q. Yes.

A. Over on the other side where the cash computation is that we have just gone through, when you start with \$226.20.

Q. Show us that.

(Testimony of A. L. Bougher.)

A. Right at the top of the upper right-hand corner on the reverse.

Q. On the upper right-hand corner on the reverse is \$226.20? A. Yes.

Mr. Belli: Does your Honor see that on the other side?

The Witness: Somewhere there is a \$25 discrepancy.

Mr. Belli: All right, that is the first card.

The Witness: Are you through with that?

Q. Are you through with it? Have you some more on there?

A. If you want a further incongruity.

Q. Yes, just tell us what it is.

A. Julius Wild is presumed to have drawn \$10 a day—

Mr. Campbell: Just a minute, I object to that characterization of the evidence. That is not the evidence here.

Mr. Belli: It shows on there.

Mr. Campbell: I concede he can testify from the face of the record, but there hasn't been any foundation laid for any presumptions on the part of this witness. [577]

The Court: He has been in court during the whole proceeding.

Mr. Belli: Yes, you are referring to the one which is supposed to have taken in \$10 a day as shown on the card?

A. To obviate the necessity of coming back to

(Testimony of A. L. Bougher.)

these cards again and again, we come point by point. [577-A]

Q. Without using the word "presumption" or "inference" let us assume there is a \$10 salary taken there. Can you state from that what is another incongruity on there, as you recall it?

A. On the face of the card, on the fifth line it says "Sal.," Then appear the figures \$55 plus \$30 extending it as \$85. \$85, according to the reasoning I aver from the testimony thus far—

Mr. Campbell: Now, just a minute, I am going to object to his conclusions from the evidence.

The Court: Sustained.

Mr. Belli: Q. Just state what you found.

A. My computation is that that 85 represents the total salary for the week ending.

Q. You can assume thus far; you can assume on the card that has been testified to that those legends are correct with reference to the \$85. Now, we will carry on from there.

A. I can go no further with it under the circumstances.

Q. Can you show us how many men were employed or what that would amount to, assuming the number of men employed were receiving the amount that was testified to as having been received?

Mr. Campbell: I object to that. That is invading the province of the jury, and consequently—

The Court: Objection overruled. [578]

Mr. Belli: Q. Go ahead.



(Testimony of A. L. Bougher.)

The Witness: A. At the very start of the card appears the item "Paid Out" \$52 for salary on that one day, Saturday. Salaries are paid daily. \$52 paid for the one day of Saturday does not reconcile with \$85 paid for the week.

Mr. Campbell: May I ask a question of the counsel, please?

Mr. Belli: Yes, any time.

The Court: Yes.

Mr. Campbell: Q. You say salaries were paid daily. You have no knowledge of this matter, have you?

A. Only from the testimony I have heard.

Q. You have heard testimony in this court that salaries were paid daily? A. Yes.

Q. And if so, by what witness?

A. I think that Mr. Hughes brought it up, and perhaps Mr. Krakauer. I wouldn't positively say.

Q. Would you say positively that either of those men so testified? A. No.

Q. So when you say that they were paid daily are you referring to any matter in the Court or information which came to you from any other source?

A. I can't be prepared to say which. My memory is not that good as to the testimony. [579]

Mr. Campbell: Very well.

Mr. Belli: I think the testimony was that they were paid daily.

Mr. Campbell: I have no recollection of that.

Mr. Belli: That is my understanding of it from the cards.

(Testimony of A. L. Bougher.)

Q. Is there anything else on that card, Mr. Bougher, besides those two items?

A. Not at the moment.

Q. What? A. No.

Q. You said "not at the moment".

A. That's right.

Q. Well, let's take the last card, Mr. Krakauer's last card, rather, of 1943. The last card in the bunch shows us what, can you show us if there are any incongruities? Show us what you find on the last card. That would be on a Saturday of 1943.

A. The card is dated 9-25.

Q. All right, go ahead.

A. The first place, the expenses listed on the reverse side of the card total \$175. The total is not shown on this card.

Q. Well, can you find out what the total is?

A. The total amounts to \$175.

Q. How about the front. Does it conform with the total on [580] the front of the card?

A. The expenses shown for that day on the card is \$235.

Q. There is a difference then of—

A. \$60.

Q. Yes, \$60. There are some other cards that have the same situation pertaining to them, aren't there?

A. There are one or two other items on this one.

Q. All right, just go ahead and tell us what else there is on that one card.

A. There is a \$10 arithmetic error. In the first place, on the top line the total take for the day

(Testimony of A. L. Bougher.)

was listed as \$4582 and was subsequently changed to \$4572.

Q. Yes.

A. Resulting in a subtraction of the total paid-outs from the total take being \$10 out.

Mr. Campbell: May I ask another question if the counsel and the court please?

Mr. Belli: I don't know about these questions.

Mr. Campbell: He has stated a conclusion of something being subsequently changed and I want to know if there is anything on the face of the card which indicates that.

The Witness: There **is**.

Mr. Campbell: May I ask a question?

The Court: Yes.

The Witness: Surely. [581]

Mr. Campbell: You say the card says \$4582 and was subsequently changed to \$4572? A. Yes.

Q. Were you present when the change was made? A. No, but it is obvious.

Q. On the face of the card?

A. On the face of the card.

Mr. Campbell: May I see that?

Mr. Belli: Will you show it to the jury, Mr. Campbell?

Mr. Campbell: The 8 and the 7 both appear?

A. Correct.

Q. Both in ink? A. Yes.

Q. Are you able to examine the ink and determine which was written first? A. I am not.

Q. Though it is your conclusion that one was written after the other?

(Testimony of A. L. Bougher.)

A. My conclusion is justified by the fact that the subtraction made and the result left there was made, from the 4582—5205 was deducted, leaving the amount of 377.

Q. Will you point that out to the ladies and gentlemen of the jury?

A. It results in the \$10 error in the statement of the profits of the day. [582]

Mr. Belli: This is on the same card that there is a difference. We will pass this after you have looked at it.

Q. That is the one where there is the \$60 error in the difference between the expenses on the front and the back? A. Yes, there is also an item—

Q. All right, what is the third item on that card?

A. Down at the bottom on the third line of the weekly summary we show an item of \$16,111, which according to my understanding of the system represents the total brought forward from the Friday card. To that is added \$4582, being the total take for the day which we have already dealt with. Now, if those two are added together, we find that the total should be \$20,693. The total actually extended as the weekly total is \$20,918.

Q. The first was \$20,693?

A. That's right.

Q. And what was the other figure?

A. \$20,918. Now, that is further—

Q. That is \$225 difference?

A. Yes, and that \$10 discrepancy is still embodied in that total.

(Testimony of A. L. Bougher.)

Q. Is there anything else on that card?

A. No.

Q. Anything on that particular card before going to any others? [583]

A. Nothing else.

Mr. Belli: I would like, while the witness is looking at that one, to have this one shown to the ladies and gentlemen of the jury.

Q. This one here where the 8 and the 7 were changed and expenses on the back don't come through to the front of the card or are contained on the card passed to the jury, and that is the one of 9-25, do you know who wrote in pencil over the lid on the front of the card on the top of it?

A. No, I don't it has been changed. [584]

Q. And by the way, all of these cards, at the top, have a red—the same red pencil, apparently, right?

A. That's right.

Q. O.K.—for the three years? A. Yes.

Q. All right. In order to explain your answer further, as to why you could not give me an audit from these cards, will you show what other errors you perceive in the cards?

A. May I see my records over there?

Q. Which do you want?

(Witness secures record and returns to the stand.)

A. I would like to refer to card No. 12, 1941.

Q. Have you got it there? A. Yes.

Q. Go ahead.

A. On card No. 12 of 1941, the total take for the day of \$1,011.50 is deducted from the total of



(Testimony of A. L. Bougher.)

the paid out, to reflect a net loss for the day of \$100.

On line 3 of the weekly summary, at the bottom, we have a figure, under B for "Book" of profit brought forward from the Friday night card.

To this figure of \$408 we add \$100, thus extending that item of \$508 for the weekly total, which is not marked as either a gain or a loss.

In other words, we don't know whether it is a loss of \$408 [585] brought forward or a profit.

Q. All right. Any others?

A. This card, I might say, is one which I picked out at the noon recess.

Q. All right. Any others?

A. As I find, on consulting my summary, that \$508 is not listed here. I have indicated it in my figures as a loss. If the \$100 for the day is added to the \$408, that \$508 should be added as a loss and not a profit.

Q. How do you have it?

A. I have it in my summary as a profit, because I took this off of the photostats.

Q. Show me some of these other cards with these errors in them. You are referring to a B, which is identified. Now the figure B is here, then an E. The B is supposed to be a book, or whatever that is, and we have then a gain or a loss, G or L, in front of the \$508, and you say there is none there.

I would like to pass that to the jury, if I may.

Mr. Campbell: May I see that card?

Mr. Campbell: There appears a pencil mark of a minus sign in front of the \$100 at first.

(Testimony of A. L. Bougher.)

(Card examined by Mr. Campbell.)

Mr. Belli: We will pass this to the jury. There is a G or L there across from the B. Do you refer to this pencil in front of the figure there? [586]

Mr. Campbell: I don't know what it is. It is a minus mark in front of the \$100 and a plus in ink—the minus in pencil.

Mr. Belli: What page have you there, Mr. Reporter? The Reporter: 166.

Mr. Belli: Q. All right, give us some other ones that are errors there, Mr. Bougher. On your note you have that last card referred to as what, So I can dig it out again?

A. This last one that we are wroking on?

Q. Yes. A. Card no. 12 of 1941.

Q. That is not the only one where there was no gain or loss marked on it, is it?

A. No, there are many of them.

Q. All right, let's dig them out, and let's show the ladies and gentlemen of the jury. Also see if there is a pencil minus in front of them.

A. Here is another one.

Q. That is what? A. No. 5, 1941.

Q. No. 5 of 1941. Across from the B there is nothing, and \$606, and nothing as to whether it is gain or loss. Have you got that one, Mr. Campbell? No pencil on this.

Mr. Campbell: The card shows total gains for the day of \$163, and receipts, \$443, plus 163. [587]

Mr. Belli: In red pencil it shows those figures, that it was a gain.

(Testimony of A. L. Bougher.)

Mr. Campbell: Just a minute. Ask the witness. It does not show that in red figures, the total gain for the day, that's what it shows.

Mr. Belli: Q. You tell us everything that it shows, Mr. Bougher.

A. The total gains for the day shows as \$163.

Q. What are the red figures on there?

A. The red figures would appear to be "Start \$260, End \$226," and then \$34 brought down with a further notation in red "cks 640, a debit," whatever that may mean.

Q. All right. How about across from the word B there? Is there anything in there on that?

A. There is not, there is nothing to indicate whether the total forward is—

Q. The red on this card is in the same color, is it not, as it is at the top of the cards there?

A. It is.

Mr. Belli: All right, may we pass this to the jury, and call attention to—across from the B.

The Witness: Card No. 8 is the same.

Mr. Belli: Q. Card No. 8 is similar?

A. Yes.

Mr. Campbell: Similar to what? [588]

A. There is no gain or loss marked on the weekly summary.

Mr. Campbell: May I ask a further question on voir dire?

The Court: Yes.

Mr. Campbell: Q. You say there is no gain or loss, Mr. Bougher?

A. Pardon me, that is No. 10. Where is No. 8?

(Testimony of A. L. Bougher.)

Q. Take any card. When you say there is no gain or loss you are indicating, as I take it, that the word B does not say either gain or loss, is not that right? A. That's right.

Q. It is all a black figure there, isn't it?

A. It is.

Mr. Belli: What is all a black figure? Across from the B?

Mr. Campbell: Yes.

The Witness: Yes, in the majority of instances there is either a G or an L.

Mr. Campbell: Q. Is there any place where, across from the B, there is purportedly a loss that is marked in red?

A. No—well, now, I should not say that. It is largely in black, all of them. Some are marked L and some G.

Mr. Campbell: I suggest, if the Court please, that the witness is not competent to characterize the cards. He can state what the cards contain or what they do not contain.

The Court: I thought we had a definition of the various [589] legends?

Mr. Campbell: We have, your Honor.

Mr. Belli: We had—there is another one here—

Mr. Campbell: That man was on the stand and described what they were. This man is giving his own impressions, his own conclusions.

The Witness: I was asked if I could—

Mr. Belli: You stay out of it.

Your Honor, here is what I have in mind: Here

(Testimony of A. L. Bougher.)

I just at random pick up a card, and here is "B 736 plus 151."

The Court: B would mean book?

Mr. Belli: Book, yes, and then there is an L over there, which I take to be a loss, and that is all in black ink, "\$847." Here there is, just before that, "B 2388, 988," and there is no gain or loss on that. That is in black ink.

But the one before that, that has a "G" and it is in black ink. That is what he is trying to show here.

Mr. Campbell: I have no objection to him pointing out what cards there are with no G or L on, but for him to make a statement that it is a gain or loss for that day is his conclusion.

Mr. Belli: I thought that was understood by the legends offered from the witness for the Government.

The Court: Is the Government witness here who brought up the schedule? Is he in court? [590]

Mr. Campbell: Yes, your Honor.

The Court: He is in court during this testimony, may the record show, and he is in such a position as he is able to hear this witness testify. Does he have his original work sheet with him?

Mr. Campbell: No, sir, he does not.

Mr. Belli: I would like to call this one to his attention, that I dug up at random. If you have some more there—just thumb through them like that? A. You mean those gains and losses?

Q. Yes, where it is not indicated whether there was a loss or a gain.



(Testimony of A. L. Bougher.)

A. Here is No. 8, No. 27—

Q. All right, go ahead. A. No. 29.

Q. Go ahead. A. No. 31.

Q. Go ahead. A. No. 34.

Q. If you come across one in red ink, let me know. A. No. 37, No. 40, No. 47, No. 48.

Mr. Belli: We will put this up here for the time being. Can you look through the other stuff there, on this, which ones don't show the G or L.

We might save, Mr. Campbell, more time if—

Mr. Campbell: I will stipulate that a number of cards are there that do not have the letters G or L after the word B, for the final figure.

Mr. Belli: Can you tell us whether, in your computation, when they did not show whether they were gain or loss, how they were computed, as gain or loss?

Mr. Campbell: I can not tell you on either one. I will compare government's computation with this man's computation on cross examination.

Mr. Belli: Well, could you answer my question as to the computation when it did not show whether they were a gain or a loss? How was it computed? Was it on his net income, that it showed a gain, or was it shown that there were losses?

Mr. Campbell: The testimony here from the government agent was that he found a number of adjustments that he had to make on account of the errors in additions or subtractions and in arriving at his computations, how he made those. He was not cross examined concerning it.

Mr. Belli: This is not a question of additions or

(Testimony of A. L. Bougher.)

subtractions. I am still trying to get your formula, to save time, just exactly what the government man did when he came across cards here which did not show whether they were a gain or loss. Was it charged against Julius or against Uncle Sam?

Mr. Campbell: In some instances it was one way and in some instances the other, depending on the explanations that we [592] obtained from Julius and his employees.

Mr. Belli: Have you got a formula as to what was charged to him, and what was charged against him?

Mr. Campbell: I will have to go through this with the man, where there were any discrepancies between his figures and our final figures—I think we will get it within a few hundred dollars.

Mr. Belli: Well how did he compute them? Could you compute them as gains or losses?

The Witness: Remember, all I have done is to read the total of those items as shown by the cards as the net gains for the week—gains or losses.

Mr. Campbell: Q. What did you do on these figures where you could not tell whether they were gains or losses?

A. I could only presume it to be one thing or the other. That is why I brought up that item, the item of \$508. The loss for the day is deducted from the previous total, or is added to the previous total, consequently that should be a loss, but there is nothing to indicate it, and stand out there as it did,

(Testimony of A. L. Bougher.)

I included it as a profit. I may have other items that are out of order.

Q. Show us some other cards that you have.

A. As far as the errors are concerned, I think I typified all of the various types. I did not attempt to list the difference there, arithmetical or otherwise. [593]

Q. Did you prepare a computation from the testimony that was adduced here in Court at the present time with reference to Mr. Wild's net worth at the beginning of the period and net worth at the end of the period, to ascertain how much income he had during the period?

Mr. Campbell: He should answer that yes or no, if the Court please.

A. Well, I don't know what you have there. I can only say no.

Mr. Belli: I don't know what I have in front of me here, but let's see what it is. Did you compute a balance sheet to show the community property between the Wilds as the net worth—assets at the beginning of this period? A. I did.

Q. And the net worth established at the end of the period? A. I did.

Q. And then taking into computation the loans, living expenses at \$350 or \$400 a month, and the stock that was purchased at the beginning or during the period, and so forth? Did you then compute the income, what it would have been during that period, to have had the difference in the net worth?

(Testimony of A. L. Bougher.)

A. I did.

Q. Is that the one, in final form now?

A. That is the one.

Q. All right, can you tell us the computation that you made, [594] the way you arrived at the computation for his net worth at the beginning and end of the period, and tell us what his income would have had to have been, according to that computation, what the declared income was, and what the declared income should have been?

Mr. Campbell: That is objected to as no proper foundation laid, and invading the province of the jury as well, and it is also incompetent, and also argumentative, so far as what his income would have to have been.

The Court: The objection as to laying the foundation is good. He should avail himself of the dated records for that testimony.

Mr. Belli: You have a computation. Will you go through that computation, and tell us, as you go through those figures, the basis for those facts?

Mr. Campbell: I am going to object to that, if the Court please, because we have no method of testing the basis for it, after his stating the facts. I object to that, no proper foundation laid.

Mr. Belli: Suppose we do it this way. Without laying a foundation for the aggregates here, because they are separate items, suppose before you give **any** figure there, you refer to the first figure here as testimony from such and such a witness, introduced in such and such a manner, and if you are

(Testimony of A. L. Bougher.)

assuming that testimony to be correct, then put [595] that figure down, and build from that figure, rather than for me to give you a hypothetical question.

Did you prefer, I could give a hypothetical question, but it would take me about an hour to do it, and I thought it would be best this way. I think that we will find that they were all produced in court, all the testimony.

(Witness examines cards.)

The Court: Have you examined it, Mr. Campbell?

Mr. Campbell: No, I was going to make that request.

The Court: I suggest you examine it. We will take a short recess, ladies and gentlemen, while this matter is gone through, there might be an interchange between counsel for verification of this. We will take the afternoon recess.

(Recess.) [596]

Mr. Campbell: Now, if the Court please, I have examined this sheet produced by the witness and for the purpose of my objection I am going to ask it be marked for identification.

Mr. Belli: That is my only copy. I would like to have it back.

The Court: You may have it back, certainly.

Mr. Belli: But I want to be sure to get it again.

Mr. Campbell: I am having it marked so there is no question about what we are referring to.

The Court: It may be marked for identification, so the record may hereafter reflect the basis.



(Testimony of A. L. Bougher.)

(The document was marked Defendant's Exhibit N for Identification.)

Mr. Campbell: Now, I am going to object to the question asked the witness and the proposed testimony relative to his summation of the net worth statement upon several grounds. In the first place, the document which he has produced and which purports to be his summation contains certain matters which are contradictory to the evidence, either admitted or stipulated to, and contains other matters concerning which there has been no evidence whatsoever adduced in this trial. Secondly, the proposed testimony of this witness relative to the net worth computation is an attempt to characterize the testimony of the various witnesses who have been produced here on the stand to allow or disallow and is his opinion of the [597] testimony as such and is an invasion of the province of the jury, and is not a summary purportedly based on books and records which are before him, and which would be his sole function as an expert accountant.

There is no place in our jurisdiction for an expert other than the judge, himself, in analyzing the testimony of the witness and which shall or shall not be given consideration by the jury. I submit no proper foundation has been laid for this testimony, that the proposed testimony is demonstrated by the sheet here by the witness is not substantiated by the record, and some parts which I can point out, but will not take time to do so, are

(Testimony of A. L. Bougher.)

contrary to certain figures placed in the record and certain evidence here.

Mr. Belli: That is what I would like to know, in what parts it does not conform to the proof.

The Court: There is one item that is particularly significant and it was for that reason that I wanted counsel to have more time to look over the exhibit, and declared a recess. There was one item, the alleged \$1000 loan with respect to the witness Joseph Sammut, otherwise known as Artchoke Joe—

Mr. Belli: I think before the case is through we will have some evidence—

The Court: Pardon me one moment—Artichoke Joe, who denied categorically ever having seen the defendant.

Mr. Belli: I have that very well in mind. [598]

The Court: I have that in mind. There is one item on which there is a sharp conflict in the evidence and the matters of loans, and so forth and so on.

Do you have anything to say for the record about that statement?

Mr. Belli: If I could just have a moment with counsel, and I am about through with this witness—Mr. Campbell, will you look here and tell me what items—you don't have to call them out—or you can call them out—

The Court: There is one other observation I should make, as it is my duty under the law to make, this witness testified earlier in his testimony

(Testimony of A. L. Bougher.)

with respect to the 1941 business he had concluded a profit of \$14,029, is that **correct?**

The Witness: No, sir.

The Court: Q. What did you have? You read a narrative containing the figures, for 1941, \$14,-029; for 1942, \$26,412; and for 1943, \$22,918.

A. As being the totals of the cards?

The Court: Q. Yes, the cards.

A. But not conclusion as to profit.

The Court: Q. In other words, that was the totalization of the cards?

A. An arithmetic calculation of the addition shown on the cards.

Q. And you gave the totals of the government as compared—

A. As being the same amount. [599]

The Court: Yes, and this document which you have handed counsel presents a number of items which—

Mr. Belli: (Interrupting): Maybe we can solve it this way, if I can just know at this time the basis of the objection, and if counsel will show me what items he objects to, and I will withdraw them and expedite it this way.

Mr. Campbell: My fundamental objection is that it is an attempt to differentiate among the testimony of the various witnesses here. Counsel's theory can be produced to the jury in argument. The jury have in their minds, or will have refreshed in their minds the testimony of these various witnesses. For example, the witness has listed

(Testimony of A. L. Bougher.)

other accounts of \$290, and in the stipulation there is this that in the Civic Center Branch of the American Trust Company, which is apparently lumped together, he has listed three bank statements; cash and savings account \$1992.94. The stipulation here was, and it was verified by the witnesses that in the savings account No. 298 at Redwood City Branch of the Bank of America, \$1992.24, which I assume is the figure he is referring to; and there is another bank account, \$292. The stipulation is here after the records were received from the bank, that in the American Trust Company, Civic Center Branch, the final balance was \$2108, while the figure he has is \$298, some two thousand less.

The record will bear me out on the stipulation. I was [600] very careful. I had this document before me. The witness here lists the California Jockey Club stock at \$18,000. The evidence here shows it was purchased, one group for ten thousand and the other group for six hundred or six fifty, both according to the testimony of Mr. and Mrs. Wild.

I don't think we should take time to go through each one, but these are examples, and I think they demonstrate the fallacy of this method and the foundation of this witness to testify.

Mr. Belli: I see counsel has in his hand the same fallacy, because he has computed the net worth. Let me make the suggestion, counsel, that you give me a copy of the net worth and I will give you

(Testimony of A. L. Bougher.)

mine, and we can compare them by the testimony.

Mr. Campbell: I prefer to rest by the testimony. I was aware counsel was reading at the time I was addressing myself to the Court. This is a summary of the evidence and I was referring to it in my statement to the Court in comparing with this document which has been marked.

Mr. Belli: I think the jury is entitled to it, if I am not entitled to it.

Mr. Campbell: I stand on my objection.

Mr. Belli: Maybe I am not entitled to it, but certainly the jury is. If counsel claims these figures are incorrect that we have here as to \$298 in the bank, we stipulated to it, [601] and if I am in error I think the Government should be both charitable and gracious enough to give us the figures they intend to argue and say it is a summary for the benefit of the jury's perusal, if not for mine. My determination of it is of little moment here.

Mr. Campbell: On that matter I have—

Mr. Belli: All right, we will ferret it out, ourselves.

The Court: Counsel, I think you have accomplished your objective in attempting that offer.

Mr. Belli: I beg your pardon?

The Court: Counsel, I think you have accomplished your objective in attempting that offer. If there be any matters that are the subject of clarification between that sheet you have and this attempted rehabilitation of the figures—and what you have attempted there is to rehabilitate certain figures from an accountant's viewpoint.



(Testimony of A. L. Bougher.)

The Witness: From an accountant's viewpoint.

The Court: Q. Ordinarily you would take what figures were at hand? A. I would.

Q. Let us assume there had been a fire in the shop of the defendant Julius Wild and the books were totally destroyed, and you went down there and had the duty cast upon you, either for the Government or for the defendant, to rehabilitate figures. You would then start in that fashion? [602]

A. That's correct.

Q. In other words, you would reconstruct from a mode of living a certain income basis or rationale, and then you would proceed and set up your various predicates and then you would draw certain conclusions. A. Yes. [602-A]

Q. But in this case there are certain records available? A. Yes.

Q. And included among those certain records available are all these little sheets, these little cards.

A. They haven't all been available.

The Court: Q. Well, they have been in Court, the Krakauer cards.

A. Yes, they were available, but they have no bearing whatever on that statement.

The Court: Q. They have been available with respect to the income tax feature, isn't that correct?

A. That is true.

Q. Now, the various errors that you have pointed to in those little cards, have you made a summation of those to the end that you would take the

(Testimony of A. L. Bougher.)

debits and credits as reflected by error and reduce or increase the amount of tax due and owing?

A. No—

Q. In other words, the various errors you have pointed out before the Court, \$10 here, \$20 here and \$40 there, in the final analysis are the subject of compilation, are they not?

A. No, not so far as any statements that I might prepare are concerned. The errors that I have found, the sketchiness of the entire setup are such that I would place absolutely no dependence on those records.

Q. You heard the testimony of Mr. Wild when he said the [603] records were quite accurate from his viewpoint; and he said Krakauer was within one-half cent accurate, didn't he?

A. That may be.

Q. You heard that testimony, did you not?

A. Whether or not in those exact words, I heard something to that effect from Mr. Wild.

Q. I am not altogether clear in my mind as to the basis of the figures you gave, Mr. Witness, concerning the item of \$14,029, \$26,412 and \$26,918. How did you get those figures? What was the basis for them? A. From the cards.

Q. Yes.

A. On the cards, on each set of cards there is an item marked "B", which I am given to understand represents the net profit for the week. I totaled those as shown by the photostatic copies of the cards which I prepared my summary from and

(Testimony of A. L. Bougher.)

secured those figures in so far as my summary was able to. Those figures were at variance with the amount of net profit shown by the Government. My purpose being to determine the differences between the net profit figures shown by the Government and the totals of the "B" item on those cards. There are discrepancies there due to the adding back of this so-called protection money and all the salary which Julius was presumed to have drawn. Those are the discrepancies and largely account for those differences. [604]

The Court: Q. Those two items?

A. Yes.

Q. Just the two items? A. Yes.

Q. On the salary item of \$10 a day, did you take the position that is or is not income?

A. I don't take any position on that, and I don't take any position on the \$14,000. I was merely trying, in the first place, we were refused access to certain facts and figures.

Mr. Belli: Q. What do you mean by that?

The Court: Q. These records have been available in Court.

A. Since we have been here, yes, but I haven't been able to sit down and make a comprehensive summary.

Q. Are there any records you desire from the Government that would aid you?

A. That would have saved a lot of time and trouble on both of our parts and saved a lot of confusion had we had the opportunity to compare

(Testimony of A. L. Bougher.)

our summary sheets prior to coming in to Court, which Mr. Campbell says he can do **now**.

The Court: Q. Where is your summary sheet you have in mind now?

Mr. Campbell: May I ask a question on voir dire?

The Court: Yes.

Mr. Campbell: Q. Mr. Bougher, do you remember whether or [605] not a number of months ago you first came into the case you came to my office, do you recall, at 100 McAllister Street Building?

A. Yes.

Q. At that time you were shown these cards, No. 7, 8 and 9, were you not?

A. That's right.

Q. And you made an examination at that time, didn't you? A. Of the photostatic copies.

Q. And we provided at the expense of the Government, you with a photostatic copy of each of these cards, didn't we? A. No.

Q. Were you not provided with a photostat?

A. No, I was merely allowed to examine a photostat.

Q. Weren't you allowed to take away at that time a photostat? A. No, sir.

Q. You did, however, examine a photostat of those cards? A. Yes.

Q. And each and every one of those cards?

A. That's right.

Q. And were at any time you refused access to

(Testimony of A. L. Bougher.)

any of Mr. Wild's records which were in possession of the Government of which you know?

A. No, I didn't know what you had and what you didn't have.

Q. Did you ever, at any time, produce and show to the Government [606] or bring to the Government the compilations or summaries which you made?

A. I had them right there in the office when I was there working. I completed them there.

Q. Did you show those to any government employees? A. No, there was no opportunity.

Q. Did you ask to have any comparison made of your summary with any summary the Government made? A. We were discussing—

Q. Pardon me, I realize I am not entitled to ask for the conversation, but did you ask for that opportunity—

Mr. Belli: You can ask him for the conversation.

The Witness: How is that?

Mr. Campbell: Q. But you were shown every record, were you not?

A. I was shown those photostatic copies of those cards.

Q. And you were shown the cards themselves?

A. That's right, yes.

Q. So you had an opportunity to compare the original cards with the photostats, is that right?

A. Not completely, no.

Q. Well, you made whatever comparison you



(Testimony of A. L. Bougher.)

wanted, didn't you? Were you ever refused access to them?       A. To the cards, no.

Q. And so far as you know, was there anything that you didn't [607] see that the Government had that belonged to Wild?

A. Not that belonged to Wild, no—nothing I know of.

Q. The complaint you have is that the Government accountant didn't show you his work papers?

A. It is not a complaint.

Q. So when you made the statement that you were not given access to all of the records that were available you are not referring to the fact that you were not given everything the Government had that pertained to Wild's records?

A. When you say "pertaining to Wild's records"—

Mr. Campbell: Well, strike the word "pertaining"—as far as Wild's records.

A. As far as Wild's records, I was given access to everything that so far I know you have.

Mr. Campbell: That's all.

The Witness: His method of dealing with them.

The Court: The objection interposed for the record to the so-called summary now marked Defendant's Exhibit N for identification is sustained.

Mr. Belli: It is sustained on the ground it is assuming facts not in evidence?

The Court: It is sustained upon that ground and several other grounds more particularly set forth by counsel; the inaccuracies apparent therein,

(Testimony of A. L. Bougher.)

assumption of fact, delineation of fact that has been in sharp conflict; and further upon the [608] particular ground and more pronounced ground, it is an attempt to rehabilitate figures wherein they are drawn from records either not available or non-existent. The records are before the Court with respect to the three years in question, 1941, '42 and '43. Subject to those minor inaccuracies or inaccuracies in fact that have been pointed out by the witness, those records are here for any audit that may be accomplished thereon. I see no occasion to assume that in this case there are no records upon which net worth may be predicated.

If you have a statement, Mr. Campbell, of net worth hand it to counsel and let us see if there can be some clarification over night.

Mr. Belli: Let us approach it from that view, then.

The Court: There is nothing counsel for the Government has that the defendant can not have, or vice versa.

Mr. Campbell: I will hand counsel a copy of this document, Julius and Emma Wild Computation of Net Income on Net Worth Basis showing January 1, 1941, and December 31, 1943.

Mr. Belli: I will have to make a copy of my own so I can give the Government a copy.

Mr. Campbell: It is not essential we have a copy.

The Court: After the recess today and before Court tomorrow morning, you can go over the matter with the Government.

(Testimony of A. L. Bougher.)

Mr. Belli: You may cross examine, Mr. Campbell. [609]

### Cross Examination

Mr. Campbell: Q. Mr. Bougher, I believe you stated you are a public accountant?

A. That's right.

Q. Presently employed by Mr. Belli, the defense counsel here in his office, or you office with him, is that correct?

A. No, I practice myself.

Q. But you occupy the same suite of offices?

A. An office, in his suite.

Q. Did you have anything to do with the conduct of Julius Wild's business in 1941, 1942 and '43?

A. I did not.

Q. Or with the keeping of any records or reports in connection with the business?

A. No.

Q. I take it that the testimony which you have given here relative to these cards is based upon what you have observed upon the face of the cards, is that correct?

A. Yes.

Q. Now, you have given a total for the year 1941 of \$14,029 as representing the profit as set forth in Government Exhibit 7 on the face of the cards, is that right?

A. Yes.

Q. That is a total of the figures after "B", is that correct?

A. That is correct. [610]

Q. You pointed out that there is a difference, that the Government figure was around 16,932.

(Testimony of A. L. Bougher.)

Now, the difference between your figure and the Government's figure is the amount of withdrawals by way of salary by Julius Wild, is it not?

A. I believe so, yes.

Q. Is that right, sir?

A. I believe so, yes.

Q. And the Government in Exhibit 13 comes up with a final net profit figure from the horse business of \$17,982? A. That's correct.

Q. The difference between the figure you gave of \$14,000 and the Government's figure as represented by the salary drawn by Mr. Wild is the difference between the disallowance of the protection payments, is that right? A. Yes.

Q. So that so far as all of these adjustments that you have referred to, and incidentally, you heard the Government agent state he had found certain errors in addition and subtraction and he had made adjustments, is that right?

A. I did.

Q. So that without going into each specific adjustment that you may have had in arriving at your figure, your figure as found from these cards and the figure of the Government agent are substantially the same, is that right?

A. They are. My intention was merely to reconcile them. [611]

Q. I understand the intention, sir, but when you add the figures on these cards of profit and add to that Julius' salary plus the protection payments, the latter two items, that is, Julius' salary

(Testimony of A. L. Bougher.)

and the protection items have been taken as expenses, but when they are added to the profit as shown on these cards your figure is substantially that of the Government agent, or \$17,982 for 1942, is that correct?       A. That's correct.

Q. And the same is true as to 1942 with reference to your assumption on these cards, isn't it, that if you take the profit shown on these cards together with the salary drawn in that year by Mr. Wild, and deduct it daily as expenses, and the 105 a month for the twelve months of protection payments, your figure would be substantially the same as the Government agent, \$35,261, isn't that right, sir?

A. I did not have the opportunity of checking 1942 and 1943 in that regard, but I believe that to be the case. The entire total would be substantially the same given those two reconciling items. Those were the points that I wanted cleared up in my mind.

Q. Now, the jury is not interested in your state of mind, but is interested in what is on these cards.

A. Yes.

Q. And is it correct, or, first, let me ask you: You say you did not make a computation on 1942 and 1943 with reference to [612] the drawings of salaries.       A. That's right, sir.

Q. Would you say, Mr. Bougher, from such examination of the cards as you made that the total amount drawn by Julius Wild as salary or drawings in the year 1942 and deducted as ex-



(Testimony of A. L. Bougher.)

penses therefor not reflected in the profit figure was \$5140?      A. No, I wouldn't.

Q. You didn't find fault with that figure?

A. I did find fault, yes. I thought you asked me if I wouldn't say that was it.

Q. Have you added up the cards?

A. All of the cards?

Q. Have you added up all of the cards, the drawings as shown by Julius, here?      A. No.

Q. So you don't know whether or not that is correct?      A. That's right, I don't know.

Q. You don't know?      A. No.

Q. Now, do you know whether or not the figure computed from these cards as being Julius' drawings and deducted as expenses before profit is figured on these cards during the ten months of 1943 that are represented by the cards, is the sum of \$4865? Do you know? [613]

A. I don't know.

Q. You made no computation of those figures, is that right?

A. I didn't consider there was ground for it. I didn't consider there was record available to produce it.

Q. Whatever you considered you did not compute the amount that is shown on the face of these cards as drawings by Julius?

A. I considered it impossible to determine with any degree of accuracy.

Q. You didn't add those figures?

A. I didn't.

(Testimony of A. L. Bougher.)

Q. So you don't know what these cards show in that respect, is that right, sir?

A. No, I don't.

Q. You don't know what the total is as shown by these cards?

A. I don't, but I do think it is indeterminable.

Q. So far as you are concerned of the net profit shown by these cards, aside from the matter of salary, which you did not compute for 1942 and 1943, your figures are not substantially different than the revenue agent's, isn't that right, sir?

A. That's correct.

Q. Now, a number of these so-called errors you pointed out on these cards were as a matter of fact in Wild's favor, weren't they?

A. It depends on what one. [614]

Q. Well, the first card you called attention to is card 13, and I am just calling your attention to one. We won't go beyond that on Exhibit 7, and you called attention to the fact that there was an error here. Do you recall that card, an error of \$10, I believe it was? [614-A]

A. No, this is an error of \$1106, against him—\$1116.

Mr. Belli: I didn't understand what you said.

A. It was an error of \$116 against Julius. He asked if it was in his favor.

Mr. Campbell: Q. You are referring to the figure "take" here, where there is this computation?

A. No, I am referring to this figure of profit and loss \$508 shown there as a profit, or I assume

(Testimony of A. L. Bougher.)

it is taken as a profit. He might take it as a profit, but on closer examination I found a \$100 loss has been added to profits, totaling \$408.

Q. Well, do you know whether that \$408 represented a profit or loss up to that point?

A. I did not know that, and I place little credence in any of those "forward" figures.

Q. That was an assumption on your part as to what the \$408 represented, is that correct?

A. The entire system is an assumption.

Q. Referring to Card No. 13, which you first pointed out as being an error, do you recall that card?

A. I do.

Q. That card had the effect of showing a smaller figure for the profit than there was actually earned, isn't that right?

A. By \$17, but not necessarily in favor of Mr. Wild.

Q. But it shows—and the only figure of the card, is accepted [615] as \$17 as a profit actually earned that day, doesn't it?

A. No, it shows that there was a \$17 difference in the cash somewhere, an unexplained difference of \$17 against Mr. Wild, or he should have had \$17 more on it, presumably, for computing his tax.

Q. I call your attention to the fact that the day's profit is added at \$35, but it was taken as a loss. The loss for the week is \$51, but actually, as

(Testimony of A. L. Bougher.)

I understand your testimony, the expenses are overstated by \$17, is that right?

A. That's right. It is overstated on the front, which means that \$17 is gone somewhere.

Q. When you say there is a shortage in the cash, that, too, is your assumption, isn't it?

A. No more than the rest of it. As I say, the entire system is a series of assumptions. It must necessarily be.

Q. That, of course, is your conclusion as well?

A. That is my professional conclusion.

Q. How long have you been an accountant, Mr. Bougher?

A. For approximately 28 years.

Q. And you have practiced here as a public accountant in this city for that length of time?

A. Not for that length of time, no.

Q. For how long have you practiced?

A. In the State of California I have practiced for myself roughly about one year. I have only recently embarked on my own practice, for this last time.

Q. Have you had any previous experience with reference to the records of horse betting rooms?

A. Not horse betting rooms, no.

Q. Or of this kind of business?

A. In one slight respect, yes.

Q. In what respect is that?

A. I had a client who was engaged in the same operation.

Q. You kept his records for him, did you?

A. No, he kept his own records.

Q. You audited those records?

(Testimony of A. L. Bougher.)

A. I did not audit them, I summarized them and advised him on them, in a friendly way.

Q. Not in a professional way?

A. Not professionally, no. I accepted no fees.

Mr. Campbell: All right, that's all.

Mr. Belli: That's all, Mr. Boucher.

### PROCEEDINGS IN REFERENCE TO MAXFERD ACCOUNT

Mr. Belli: There is one other item I spoke to counsel about the other day, and that is with reference to the Maxferd account.

I notice we got the computation there. There is an account owing of \$1132 at the beginning of 1941. The records do not show that, and if we call the Maxferd man he will testify that he misunderstood Mr. Campbell and there was nothing [617] owing at that time. I say that in the presence of the jury, because that is the fact. Could you check on that?

Mr. Campbell: I think the record is right here. That can be checked between now and tomorrow morning. It is not, as I recall, verified in the testimony.

Mr. Belli: That is correct. He testified that way, and we thought that was in error, and phoned him, but we can check that.

Mr. Campbell: That was his testimony, as I recall, that that was the amount.

Mr. Belli: That is the defense, with the exception, your Honor, of Mr. Krakauer, himself. As I understand it, the prosecution is going to call Mr.



Krakauer, so we won't call him presently, he being their witness.

Mr. Campbell: I did not get the full statement.

Mr. Belli: If you are going to call Mr. Krakauer, we won't call him again—for several items—but if you don't intend to call him, then we will be forced to call him.

Mr. Campbell: I suggest counsel put his case on in the proper manner.

Mr. Belli: Call Mr. Krakauer. [618]

### JULIUS KRAKAUER,

recalled; previously sworn.

### Further Cross Examination

Mr. Belli: Q. Mr. Krakauer, the last time you saw the book Mr. Wild had kept his records in, was in the other room, other than the room that you were in, is that right? A. I never saw it.

Q. You never at any time saw it, is that correct, sir? A. That is correct.

Q. And as I understand it, the only records which you kept for Mr. Wild, concerning his business, in, say, 1939, '40, '41, '42 or 1943—the only records whatsoever were these cards here in Government's Exhibit 7, 8, and 9, is that right?

A. I kept a record at my own suggestion, in his acquiescence, of the sleepers, which were not noted in the form. I kept them, and when this matter of the Shornick account came up, which I was not asked about, he desired to withhold information on it—

(Testimony of Julius Krakauer.)

Mr. Belli: We will see that you don't withhold information—

A. Mr. Hughes kept that until such time as he left to go to the Alameda Navy Airport, I think it was, when he had to leave there because of Government work.

Q. How did you keep those sleepers, in a book about the size of this one, here (indicating)? [619]

Mr. Campbell: I am going to ask, is this further cross examination, or is he your witness?

Mr. Belli: We would like to have him under cross, if we could. We haven't very much more.

Mr. Campbell: I suggest—I don't want to unduly extend this, but on the other hand I don't want to curtail the defendant from any defense he has to make. May we have an understanding as to how he is called here?

Mr. Belli: I would like to have him called under cross, if we may, your Honor.

Mr. Campbell: I think that is not proper at this stage of the proceedings.

The Court: You may recall him for further cross examination, Counsel.

Mr. Belli: Thank you, your Honor. This will be very brief.

Q. Mr. Krakauer, were those sleepers kept in a book like this (indicating)?

A. No, there were two or three tablets, such as I used in kindergarten, pulp paper tablets, such as you give children in kindergarten, so that they can have a lot of fun with them. Not being much

(Testimony of Julius Krakauer.)

of a fellow to spend much additional money when I had something I could utilize available, I used one of those tablets. There was two or three around the place, with a red cover on them. [620]

Q. Did that have a cover on it like this (indicating)?

A. No, a pliable flexible paper cover, which is one of those ordinary red tablets such as they use in school, a school tablet—rather thick.

Q. And outside of that flexible tablet, and outside of these cards, here, you kept no records, whatsoever? A. No. The only reason I—

Q. Mr. Krakauer, the question to you—will you answer precisely, please?

A. I kept no other records.

Mr. Campbell: The witness is entitled to explain his answer.

The Court: He is. You may explain your answer.

A. I only kept such records as were sanctioned by Mr. Wild, and some of them under his instruction.

Q. But you told us all of the records that you kept now, that being the record of the sleepers in the little book—

A. There was no little book, please understand, that is a tablet.

Q. There was no little book?

A. There was no little book. There was a tablet, and I described it as a pulp paper tablet such as is used in schools, with a flexible cover in red.

(Testimony of Julius Krakauer.)

Q. Thank you very much for making me understand that. There was no other book or anything like that that you kept, is [621] that correct?

A. That is correct.

Mr. Belli: May I ask that the witness be excused from the room for a minute while I make an offer, your Honor? I do this in all sincerity, and I want to make an offer to counsel in the presence of the jury, and excuse the witness.

The Court: In the presence of the jury?

Mr. Belli: Yes.

Mr. Campbell: That is a strange statement to make.

Mr. Belli: It is not so strange, in that I have laid a foundation here now, with this witness, and I have put him under cross examination, and I recall his testimony precisely.

I want to—it is necessary that I show counsel something before I show this witness. I would like to show that to counsel, without making any statement, whatsoever, in the absence of this witness. In other words, it is merely to show counsel this.

The Court: Concerning documents that ordinarily you would show counsel—as a matter of courtesy?

Mr. Belli: That's right.

The Court: In the absence of the witness?

Mr. Belli: That's right.

The Court: Maybe counsel will waive the courtesy.

Mr. Campbell: Yes, we will waive it.

(Testimony of Julius Krakauer.)

The Court: All right, courtesy is waived. Confront the [622] witness with it. Do you require any additional courtesy, Mr. Witness?

The Witness: I hope not.

Mr. Belli: Q. Did you ever see this before (indicating a book)? A. Yes.

Q. Is that the little school book that you were referring to? A. No, it is not.

Q. Is that one of the books that you forgot that you kept for Mr. Wild?

A. Yes, I admit that I forgot it. It was a cash account I kept for him. I admit I forgot it. It is my writing—only a cash account, however.

Q. You perceive that it is your writing, Mr. Krakauer? A. Yes, it is.

The Court: What is the significance of the book? By “cash book” what do you mean?

Mr. Belli: Q. You see Joe’s name in there, Mr. Krakauer?

The Court: What is the book? Tell us what it is?

The Witness: It is a book—Jules asked me to keep the cash account—

Mr. Belli: Q. Asked you to keep what?

A. The cash account, that’s all it is.

Q. That is what (indicating item)?

A. Here it says, “By cash to J. W. Personally,” and here I [623] balanced it off. (Indicating.)

Q. “Cash to J. W. Personally.” That is to Julius Wild? A. Yes.

Q. What is this “Artichoke” shown here?

Mr. Campbell: Let me see that, please.



(Testimony of Julius Krakauer.)

Mr. Belli: I thought you were going to waive the courtesy until he has been confronted—

Mr. Campbell: I ask that that be stricken, if the Court please.

(Discussion between counsel.)

The Court: Mr. Belli, don't indulge in that any more. I think ample courtesy has been extended to you and your client, as well as the Government. We are nearing the end of the trial. Both counsel have been very cordial to one another, and I assume we can continue to act that way.

Ladies and gentlemen of the jury, I admonish you to disregard the last statement by Mr. Belli as not evidence, and I will instruct you that the discussion between counsel, and the by-play, will serve no useful purpose in coming to a conclusion on the evidence. It is for you to assimilate the evidence under the instructions of the Court as to the law.

All right.

Mr. Campbell: May I now see the book, your Honor?

The Court: Yes. I assume at a proper time, Mr. Belli, you are going to make a disclosure where this book has been all this time? [624]

Mr. Belli: Yes.

Mr. Campbell: Can we inquire as to what date this book refers?

Mr. Belli: That is why I wanted counsel, if they had any objection—

The Court: There is no question about the authenticity. You confirmed that. Could you fix the

(Testimony of Julius Krakauer.)

date from the book? As we pursue this we might find a black book before we finish.

Mr. Belli: Q. You don't know where the black book is, do you, Mr. Krakauer?

A. Positively not, sir.

Q. Well, you did not know where this one was, either, did you?

The Court: You did not have it in your possession, did you? A. No, sir.

Mr. Belli: Q. You forgot that you even kept this, you told us.

Mr. Campbell: May we establish what it is, please? What period does it represent?

Mr. Belli: All right, what period does this refer to, Mr. Krakauer?

A. Let me see the book, and maybe I can tell you. I don't know.

Q. You haven't forgotten the book?

A. No, I admitted that I was asked to keep it. It was kept for a very short time, by the way. [625]

Q. Before I talk about this book, how about Dr. Shornick's records? Did you keep those, too?

Mr. Campbell: May the book be marked for Identification?

(The book was marked Defendant's Exhibit

O For Identification.)

Mr. Belli: Q. Mr. Krakauer, could you pause just a minute there now and put on your thinking cap and your memory, and see if you cannot tell us if you did not keep some other books for Mr. Wild?

(Testimony of Julius Krakauer.)

Mr. Campbell: We object to the question unless a period be fixed.

Mr. Belli: Any period.

Mr. Campbell: We object to the question.

The Court: Overruled. You tested his recollection.

A. I kept a record of his future book, for the Santa Anita Handicap.

Mr. Belli: Q. You did not testify about that when I asked you before.

A. You did not ask me about that. That was 1940, and I kept that for him, the bets that came in, and everything.

Q. What else did you keep, now, that you remember, in book form, Mr. Krakauer?

A. I don't think I kept anything else. I am not trying to hold back. I am trying to think of that.

I told you—I volunteered the information I kept the Shornick account, after Mr. Hughes left and abandoned it, [626] because he had to.

Q. How did you keep the Shornick account, in a book, or what?

A. Mr. Hughes kept it on a card, and I kept it in back of one of those—I believe in one of those tablets. In the front was the sleepers, and in the back was the other. That is my recollection.

That record only lasted about a month or three weeks.

Q. When was the last time that you saw the tablet with the sleepers in it?

(Testimony of Julius Krakauer.)

A. I handed it to Mr. Collard—handed him all of the sleepers at the same time.

Q. When had you taken these cards from Mr. Wild (indicating)? You took those before you handed the sleepers back to Mr. Collard?

A. I laid them right out on the table, there, and Jack Snell, whose name I could not recall the other day—

Q. Never mind Mr. Snell. When did you take these—referring to 7, 8, and 9?

A. Right in Mr. Collard's presence.

Q. In Mr. Collard's presence? A. Yes.

Q. But did you put them in your pocket, or how did you take them?

A. I put them in a paper bag, as I recall.

Q. You put them in a paper bag in Mr. Collard's presence? [627]

A. I am not sure as to that. I had some personal items, a sweater and some other things, and I put them all in a bundle and took them with me.

Q. You recall the incident of taking them?

A. I testified to that before, why I took them.

Q. When is the last time that you saw the Shornick account?

A. Well, the last time I saw the Shornick account—I got interested in it on account of keeping it, merely as a matter of fact when we paid Mr. Shornick off finally—Dr. Shornick, I would say.

Q. That was just a few figures on that book, one or two?

A. Yes, and then I kept the record of it subse-

(Testimony of Julius Krakauer.)

quently for my information, just ran it on down, you understand.

Q. You were not betting the system with Mr. Wild's money, were you?

A. I was not betting it at all, because there was no book that he kept it on.

Q. What was this, Mr. Krakauer, just a few figures, that you were keeping for your own information? First, is that in your handwriting?

A. Yes.

Q. What were you doing there, were you fascinated at that time by Dr. Shornick's system?

Mr. Campbell: Let him answer one question before another one is asked.

A. Let me look at it just a minute. [628]

Mr. Belli: Q. Yes, you take your time.

A. This is a record of a system that I had heard about, that I just kept a record of, but never used it.

Q. Whose system is that?

A. Oh, the books are full of systems, racing books, and so on. This is just a record that I kept.

Q. What are all those sums of money there on that, Mr. Krakauer?

Mr. Campbell: Just a minute. I am going to object. That has no materiality, unless it be shown that this was some record he kept for Wild, or has some relation to his business.

I make the objection that it is not material, if the Court please.

The Court: What is the basis of your question?



(Testimony of Julius Krakauer.)

Mr. Belli: To show that this man bet with Mr. Wild's money, your Honor, and that he kept other records than those which he swore to here, and to thoroughly discredit the witness and impeach him.

Mr. Campbell: May I see the document that you are referring to?

Mr. Belli: Yes, I offered it to you, and offered to put him outside, and you did not want it.

(Document examined by Mr. Campbell.)

Mr. Campbell: I submit the argument certainly does not support the assertion.

The Court: I will permit you to cross-examine the witness [629] on it, and the witness may then offer any explanation he has, on cross-examination.

Mr. Belli: Q. By the way, weren't you under indictment in the Federal Court—was it El Paso, Texas—about ten or fifteen years ago?

Mr. Campbell: Just a minute. That is objected to, if the Court please, as incompetent, and I ask that the jury be instructed to disregard it, and I ask that counsel be admonished as to that question.

The Court: The objection is sustained. The jury is instructed to disregard any reference made to any indictment, and as to jurisdictional matters in Texas or otherwise. Counsel, perhaps we better take the afternoon recess. I would like to see the attorneys after the session—unless you have another question, Mr. Belli.

Mr. Belli: There is just one question I would like to ask and then we will close, on that book.

(Testimony of Julius Krakauer.)

Your Honor has been giving me great indulgence, and I won't be long, and I won't impose.

The Court: Very well.

Mr. Belli: Q. Mr. Krakauer, now that you have seen this book, here, and you remember keeping it, you tell us this is a cash book for Julius, is that right? A. No, this is his cash account.

Q. That is his cash account? [630]

A. Yes, what he drew, his salary and all that. It was only kept a little while.

Q. Did you know Artichoke Joe?

A. Never saw the man in my life.

Q. Never saw the man, and you would not know him if he stepped into the courtroom?

A. No, sir, I know him by reputation—

Q. You know him by reputation?

A. Yes, everybody knows something about Artichoke Joe, apparently.

Q. Well, we do now—

A. I have seen his name in the paper, and all that sort of thing.

Q. If you look in the book you will see his name in the handwriting of yourself.

A. It might possibly be, sir.

Q. It might possibly be? A. Yes.

Q. Would you look and see if it is?

A. I never saw him, though.

Q. What does that say?

The Court (reading): "1. Artichoke, Credit, \$500."

The Witness: That is January 1st.

(Testimony of Julius Krakauer.)

Mr. Belli: "January 1st," not "1 Artichoke"?

A. Yes.

Q. What does that mean, in your handwriting?

A. Credit, \$500, and then I bring this over here, and that makes \$952. These are all Jules' personal items (indicating). Here is his salary for the day, carried on down.

Q. How about that "1 Artichoke," January 1st? That is \$500. Even for a man as frugal as you are, \$500 would be such a sum as you would—

Mr. Campbell: I object to that as argumentative, if the Court please.

Mr. Belli: Let me withdraw it and re-ask it, then.

Q. Do you recall, in your own handwriting, what that \$500 was for—to Artichoke Joe?

A. \$500 probably that Jules spent with him.

Q. Oh, come, now, you kept the books, didn't you?

A. Yes.

Q. What was it for?

A. It must have been a bet, because I did not even know Artichoke Joe. He must have bet with him for \$500.

Q. We find Artichoke Joe's name in there more than one time. You did not know who he was, or anything about him?

A. No, sir, I never saw him. I have gone down there. I have taken money to Artichoke Joe's place on Sixth Street for Jules, and I have collected money—

Q. And you never saw him?

A. I went to what was supposed to be Arti-

(Testimony of Julius Krakauer.)

choke Joe's place, but I never saw the man. I told you outside of Court that I [632] did not know the man personally. I told you I never saw him, and I didn't.

Q. As a matter of fact, you know of your own knowledge, don't you, that there was a lot of money lost by Jules, in the other room, that was not reflected in these cards here?

The Court: When?

Mr. Belli: 1941, '42 and '43. Am I not right?

A. I don't believe you are. I kept no record of it.

Q. Well, you kept records in these books, don't you, of the money that was lost by the runners?

A. No, sir, that was Jules' personal cash account. I only kept it for a little while.

Q. What did you do with reference to this Artichoke Joe, when Jules came and told you to put \$500 credit to Artichoke?

Mr. Campbell: May I have the time, please, of this?

Mr. Belli: Your records are the best evidence as to when he kept them.

Mr. Campbell: He was never asked when he kept them.

Mr. Belli: Q. You are being asked now. Mr. Krakauer, when did you keep those records?

A. I am quite sure it was before 1941.

The Court: To refresh your recollection, look at that book, Mr. Krakauer. There must be some information there that would help.

(Testimony of Julius Krakauer.)

A. Well, I see right there—(pointing). [63?]

Mr. Belli: Q. You just pointed to “Sammut.” That is Artichoke Joe, isn’t it? And here is “Gandy.”

Mr. Campbell: Let him answer the first question.

Mr. Belli: There are so many that occur to me, you will forgive me if I become a little repetitious.

A. You are giving me one of these runners that Mr. Hughes handled.

Q. Those are the men Mr. Wild lost money to, weren’t they, Mr. Krakauer?

Mr. Campbell: If he knows.

Mr. Belli: If you know.

A. I told you, all I know, with reference to these very limited items here, is what I put down here.

Mr. Campbell: May I finally have the date when that record was kept?

Mr. Belli: Would you like, tonight, at home, to see if you could find any more records that might assist us? A. I have no more records.

Mr. McMillan: May we have an answer to that question, if your Honor please, before we go on to a few more?

The Court: As to the date?

Mr. McMillan: Yes.

The Court: Yes.

Mr. McMillan: There has been no foundation laid for it, [634] your Honor, for this testimony and these questions.

The Court: The witness has been asked the ques-



(Testimony of Julius Krakauer.)

tion. I have given him an opportunity to answer.

A. Your Honor, the date here is not stated in here, if he desires not to put a date in here.

Mr. Belli: Who desires not to put a date in?

A. I just did not put a date in.

Q. Maybe if you look toward the end of it there, Mr. Krakauer, you might be able to tell, from some of the horses that were running, and it might refresh your memory, too, that you kept a winter book.

Mr. McMillan: Is that a question?

Mr. Belli: If you want to stipulate to a statement, I will stipulate to it. I think the witness understands.

A. This, here, is the winter book.

Q. Did you keep a winter book?

The Court: Permit him to answer the question. Go ahead.

A. Just from the identification here, this is the cash account of the winter book—not the horses, because they were kept on cards from day to day. That was in January of 1940.

The Court: January, 1940? A. Yes.

Mr. Belli: Q. Then you kept a winter book, too, you recall now? A. I told you that.

Q. When?

A. A moment ago, when you asked me.

Q. You mean before I produced the book to show that you kept it?

A. Mr. Belli, the winter book was kept on cards, and I just entered the debit or credit on the posi-

(Testimony of Julius Krakauer.)

tion every day, and right here is the cash account with reference to it.

Q. Let's see, Mr. Krakauer, do I understand that you kept the winter book on cards?

Mr. Campbell: Of what year, please?

The Witness: 1940, which must have been the winter book, because that is the only winter book I had anything to do with.

Mr. Belli: Q. What did you do, destroy the cards and put the winter book in this (indicating)?

A. No, that is just the cash account.

Q. The cash account for the winter book?

A. Yes.

Q. Who kept that? A. Right here—myself.

Q. You kept it, yourself, didn't you?

A. Right here, this is it, right here.

Q. That is in your handwriting? A. Yes, sir.

Q. Who kept it in 1941, '2 and '3?

A. There was no winter book kept to amount to anything in those years. The only real winter book that amounted to [636] anything was in 1940, the Seabiscuit race.

Q. And who kept that?

A. The Seabiscuit bets were taken by Mr. Hughes, and by a good many people, and written on cards, and at the end of the day, I would take and figure up the position in cash and put it in it.

Q. What about 1941, '2 and '3?

A. Jules kept it.

Q. Did you put it in here?

A. No, sir, Jules kept a winter book, that he

(Testimony of Julius Krakauer.)

kept, his own, which was very limited because of the very sad experience we had had on Seabiscuit.

Q. You say that book he kept?

A. He kept it on cards.

Q. In his desk, right-hand side?      A. No.

Q. Where did he keep it?

A. I don't know that he even kept the book on it.

Q. You don't know that he kept it now?

A. No, sir.

Q. Did he or didn't he?

A. He had a very limited winter book that he took a few bets for on.

Q. Did you see him keep a book with those records in it?

A. No, that was a winter book. I mean the term of writing [637] up bets on a future race, that is what we call the winter book. That don't mean entering in a book.

Q. When did he keep those records?

A. I really don't know.

Q. Oh, you don't know?      A. No.

Mr. Belli: Can we take the recess, your Honor? I have more on the subject for tomorrow.

Mr. Campbell: I could not hear that last statement of counsel.

(Statement repeated as above.)

The Court: So that we may understand the testimony thus far, it is admitted, although it is garbled—Do I understand you, Mr. Krakauer, to testify to this court and jury that the book to which

(Testimony of Julius Krakauer.)

counsel has referred you—you referred to it as a cash book, represents the winter book for 1940?

A. No, sir, the front part of it is Mr. Wild's salary in there, in his cash account.

Q. Do you recall the year or the years over which that account may have extended?

A. From the winter book—what I mean is not a book, you understand—it must have been 1940.

Q. Using the term “winter book” that is a part of the cash account? [638]

A. Just the cash account of the winter book.

Q. You now refresh your recollection to the extent that the account therein referred to is 1940?

A. Yes.

The Court: All right. Now, this piece of paper—so there will be no question about it between now and tomorrow morning—handed to you by counsel, which bears no identification mark on it—it better be identified.

Mr. Belli: The cash book, so called, that is identified as Exhibit O.

The Court: All right.

(Thereupon the clerk marked the sheet in question as Exhibit P for Identification.)

The Court: Let me see the sheet, please.

(Exhibit P examined by the court.)

The Court: This you say you kept for your own personal information?

A. I was using a system that I thought might work, and I worked out problems of this kind, and

(Testimony of Julius Krakauer.)

I kept it to see what the record might be, if I bet out, which I did not do.

Q. When, to the best of your recollection, did you keep that account, over what period of time?

A. Well, being in that book that way, I would not want to say.

Q. By references to the horses' names could you tell?

A. There is a possibility it could be identified, but that [639] is very unlikely. I don't know.

Q. So tonight, if you have an opportunity, you might be able to refresh your recollection by looking at the various names of horses, could you?

A. I would be very glad to. I have no written record.

Q. The names of the horses might refresh your recollection? A. I would be very glad to try.

The Court: In summary, then, as I understand your testimony, that record was kept by you for your own edification, your own benefit, merely, as the net result of a system that you used, or you would have used—

A. Would have used if it had been of any value.

Q. The amounts indicated thereon, in dollar value, do not in any sense of the word represent losses or benefits, either to you or to any other person or persons? A. Absolutely.

Q. And that is a true statement?

A. Absolutely.

The Court: All right.

Mr. Belli: Q. In this book I found this too: Is



(Testimony of Julius Krakauer.)

this what the sleepers were kept in? I refer to a little manila envelope, here.

A. No, all of our checks, that were not even sleepers, that people left, were all put in an envelope, and in the morning they were paid out in these envelopes. [640]

Q. Is that your handwriting on it?

A. That is service. We put the money for the service in there. That is my handwriting.

Q. The money goes in here?

A. Yes, that is service.

Q. Do you know what this would be doing in this book, here, assuming it was found in that manner (indicating)?

A. Oh, I don't know. That would not mean anything, because, as I say, the service was put in there, and maybe somebody else had already made up the service envelope, and that one was in there.

Mr. Belli: Shall we take the recess, your Honor?

The Court: We will take the afternoon recess, ladies and gentlemen, and we will resume the case tomorrow morning at 10 o'clock.

Mr. Campbell: I think the previous arrangement was 10:30 tomorrow morning.

The Court: 10:30. Mr. Belli, you have a matter in the State court?

Mr. Belli: That's the one I spoke to you about, with Judge Schoenfeld.

The Court: We will resume at 10:30, then, tomorrow morning, ladies and gentlemen.

(Testimony of Julius Krakauer.)

(After the usual admonition to the jury, an adjournment was taken until tomorrow, Thursday, August 19, 1948, at 10:30 o'clock a.m.)

Thursday Morning Session, August 19, 1948.  
10:30 a.m.

The Clerk: United States vs. Wild, on trial.

Mr. Belli: Ready.

Mr. Campbell: Ready.

The Court: The jurors are present, gentlemen; you may proceed.

**JULIUS KRAKAUER**

Recalled, previously sworn.

**Further Cross Examination**

Mr. Belli: Q. Mr. Krakauer, with reference to this book that I showed you the other day being kept in your handwriting—(Addressing the Court) We offer this new evidence as defendant's exhibit next in order, if your Honor please.

Mr. Campbell: I have no objections.

Mr. Belli: May it be so marked.

The Court: So ordered.

(Thereupon the book above referred to was marked as Defendant's Exhibit O in evidence.)

The Court: You will refer to that in the future as the cash book or what?

Mr. Belli: Yes, the cash book or Defendant's Exhibit O.

Q. Does that refresh your memory that you might have [642] kept other books for Mr. Wild, Mr. Krakauer?

(Testimony of Julius Krakauer.)

A. That was kept such a short time I may have kept some other records that have gone out of my mind, sir. I don't want to make a positive statement that I didn't keep something just like this that you brought here, which I tried to elaborate on, if your Honor will permit me. I will be glad to give you the further information.

Q. As I understood your testimony when you were first on the stand you told us with reference to your own records that you could tell us any minute of the day going back into the past how things stood, was that correct?

A. I did sir, and I brought you information I found after I made that statement. I brought you the record of the 25th of September, the 24th, on one document and the 23rd on another.

Q. Can't you tell us what other books you kept for Julius rather than saying you may have kept other books?

A. I don't think I kept any more.

Q. But you can't be positive?

A. No, I wouldn't make it positive, because this was kept for a period of a very short time. I may have kept a record of that kind for a short time. It was not even balanced off.

Q. Was it your testimony after you stopped keeping this book, and you did keep this one, didn't you?

A. Yes, that is my handwriting. How could I deny that? [643]

Q. How did you or how could you?

(Testimony of Julius Krakauer.)

A. How could I?

Q. How could you, that is better. After you had this book, did you keep another book for the same entries, the same type of business continued?

Mr. Campbell: That's objected to as assuming facts not in evidence.

Mr. Belli: Withdrawn.

Q. Mr. Krakauer, it shows in here you were doing business with, who was a "Tom Boone," or is that? I can't read your writing.

Mr. Campbell: I object to counsel's statement that you were "doing business with" and then ask a question, the implication being that is some transaction of this witness.

The Witness: That is "some book," I write very poorly.

Mr. Belli: Q. From which book?

A. From the book, and this is Mr. Wild's personal cash account.

Q. Yes.

A. From the book, whether from those cards or from some other records or from the book he received that much money.

Q. This cash book I am showing you, Exhibit O here by the defendant, that shows entries in there to Yama, Artichoke JO, and some of these other runners, doesn't it?

A. If they are in there, it does.

Q. They are, so you can take my word for it.

A. Yes.

Q. You think this book was around 1940?

(Testimony of Julius Krakauer.)

A. Only by the fact there was some other information in the back of that account of the cash account of the winter book is the only reason I say that. It is not dated, sir, that's correct.

Q. But it is around 1940?—Maybe 1941?

A. Could be.

Q. Now, Mr. Krakauer, Mr. Wild's type of business or character of business did change between 1939, 40, 41, and 42; by that I mean he was doing business over the telephone and in what we call a one-room and with the runners doing business in the other room in which you were the man in charge, the same type or character of business?

A. May I correct that? I was not the man in charge.

Q. Please let me finish the question. It is laborious enough, Mr. Krakauer. A. O. K.

Q. I will start all over again: was there any difference in the type of business Mr. Wild did in 1939, 40, 41, 42, and 43 with reference to his taking bets over the telephone in one part of the establishment and his taking bets from people over the counter in the other part of the establishment?

A. No, there was no change in the manner of doing it.

Q. Now, if this is for 1940 or 1941, it indicates references by [645] you to Artichoke Jo, Yama, and the rest of the others.

A. If there are any others in there, why, I believe they would. There is no question about that.

Q. And you kept those records, did you?



(Testimony of Julius Krakauer.)

A. For the short period indicated there, yes.

Q. And Yama and Artichoke Jo did their business in the other room, in the room you were in?

A. They did not do it in the other room entirely.

Q. But they did most of it in there, didn't they?

A. May I be allowed to tell you, to use Yama as an example?

Q. If you would just answer the question first, please, Mr. Krakauer.

A. I don't think they did most of it in the back room. I wouldn't want to state what percentage they did in there—

Q. You show me any place on these cards, 7, 8, and 9—and you told us already the type of business didn't change. You show us anywhere on these cards, 7, 8 or 9 where Yama or Artichoke Jo or any business that is done in the other room, where that is here?

Mr. Campbell: Just a minute, I stipulate no names appear there.

The Court: That does not satisfy the question.

Q. Do you understand the question?

A. Yes.

The Court: It is a broad and comprehensive question. [646] Can you answer it?

A. Yes, the business of the runners, if any done in that room as runners, is not reflected in those cards. I make it definite. I have no desire—I'm here under oath.

Mr. Belli: Q. All right, we take this book here, Exhibit O, the cash book, and we show in there that

(Testimony of Julius Krakauer.)

you have made entries for Yama, Artichoke Jo, and the people who were running in the other room there. Now, can you tell us when this book was stopped and right at the begining of this period, 1940 and 1941, did you keep those records after this period in another book?

A. I don't believe I did.

Q. You say you don't believe you did?

A. No, I'm quite sure, but I don't believe I did.

Q. Now, on a thing like that, I question you for a positive answer. Will you tell us positively that you didn't, or will you say that you are not sure?

Mr. Campbell: I object to that. He has given his answer to the best of his recollection.

Mr. Belli: It is my understanding to be—

The Court: I will allow the question.

Mr. Belli: Q. The question is, again, Mr. Krakauer, and I want an answer either that you are positive or that you are not sure or that you don't remember.

Mr. Campbell: Just a minute, the counsel cannot insist on what the answer be—He can simply put the question. [647]

The Court: No, he has given the witness several alternatives.

Mr. Campbell: No, but he says, "I insist it be this or that."

The Court: The witness understands just what he means, I think.

Q. You understand the question?

A. Yes, I do.

Q. You are thoroughly conversant with it?

(Testimony of Julius Krakauer.)

A. Yes.

The Court: All right, you may answer the question.

The Witness: A. I am not sure.

Mr. Belli: Q. You are not sure?

A. Yes, sir.

Q. The other day you told the ladies and gentlemen you did not make any entries in the black book and you never saw it, didn't you?

A. The entries in the black book I didn't make. I am quite sure of that.

Q. But you are not sure that you have made entries with reference to these runners, Artichoke Joe, and Yama, Shufflin Sam, Ten Grand Patty, and the rest of them in some other book, is that right? A. I am not sure.

Q. Let's see if we can jog your memory a little bit more here: [648] do you have any recollection what type of book that might be that you kept these other records in? A. I am not sure.

Q. You are not sure. Did you look around your home last night to see if you could find any of the books? A. I have nothing further in my home.

Q. What other books did you take from Mr. Wild when you signed the statement that you were not taking any records? A. Not a book.

Q. You just lied about these cards, is that right?

Mr. Campbell: That is objected to—

The Court: Objection sustained.

Mr. Belli: Q. Well, you just made an unfactual

(Testimony of Julius Krakauer.)

statement with reference to these cards, is that right?

A. If that is the legal way of putting it, I have explained how I came to take those cards, and I stand on that explanation.

Q. Give it to me again, will you please, just briefly—your motive in taking these cards and signing this paper that you didn't take them? Was it that you were going to be haled into court by Uncle Sam for taxes?

A. Because here is what happened and I try to repeat as I recall my testimony. The evening before Mr. Wild and myself had had some words with reference to these sleepers that have been mentioned here, and I took the record of the sleepers and showed him that I had been giving out some of these in [649] pursuance of an agreement that we had come to that it might be a good idea as a sort of an advertisement and gesture of good will to give some of these out, even though the people were not entitled to them as a matter of honesty, or anything of the kind. There was no deception on it. They just bet on the wrong number, and I called his attention to some of the people I had given these, and therefore there was a reduction in the amount of sleepers he received. I thought the thing was settled. The next evening, which was Saturday evening, the close of the week, he was about to go. Everybody else was gone except Mr. Jim Snell, sitting at the desk where he had some figuring and Jules came up and said, "Clarence, check Mr. Kra-

(Testimony of Julius Krakauer.)

kauer out." I said, "What do you mean?" "Well," he said—again mentioned the sleepers, and I said, "I thought I had explained that." He says, "Never mind,"—no, I would like to correct that, he says, "Give Collard charge of the sleepers." I says, "Do you mean give him charge of the sleepers and I am to continue to work?" He said, "If you want to." I said, "I am quitting under those conditions." And he told Collard then to check me out, and he went through the door which he has mentioned before as coming from the elevator, walked out, came back and said, "Now, don't try to do me any harm with reference to this tax matter, because you are in it as deep as I am." He went out then and he didn't return. [650]

I then gave my key to Collard, and the sleeper book, with three or four sleeper envelopes, and I then took these cards, laid them out there and told Mr. Collard that I was taking them for the purpose that I have indicated.

Q. No, you haven't indicated yet. I would like to know.

A. Well, to protect me against the possibility of Mr. Wild and the statement he made that I was in this as deep as he was, to protect myself.

Q. Will you also show the ladies and gentlemen of the jury, Mr. Krakauer, how you could be involved in any tax matter by reason of these cards?

Mr. Campbell: I object as incompetent, irrelevant, and immaterial. He was asked for the motive and he was giving the motive.



(Testimony of Julius Krakauer.)

Mr. Belli: Q. And as I understand your motive, it was so that Uncle Sam wouldn't come back at you for taxes?

A. Not for taxes, but any question as to Mr. Wild's taxes—I am not a lawyer. I don't know anything about the law. I pay my taxes when they become due, and I simply couldn't take a chance of protecting myself, especially in view of the fact that I made eleven cards at the dictation of Mr. Callahan which were not in keeping with the records.

Q. At the dictation of Mr. Callahan?

A. Yes, and I repeat that unequivocally.

Q. You heard Mr. Callahan testify? [651]

A. Yes, I did.

Q. Mr. Krakauer, I want to ask you with reference to making up those cards, you saw the black book and the figures from the book when you made up the 12 cards, did you?

A. Mr. Wild didn't give me the black book to make them from. Mr. Callahan dictated those figures to me.

The Court: Will you answer the specific question? There were 12 in number and you made 11.

A. Yes.

Q. And at the time you say Mr. Callahan dictated the subject matter to you? A. Yes.

Q. And you in turn incorporated the subject matter in those cards? A. Yes.

Q. Now, at that very juncture did Mr. Callahan

(Testimony of Julius Krakauer.)

or any person have in your immediate presence the black book?     A. No, sir.

Q. To your knowledge did they incorporate any figures from this black book into those cards?

A. No.

Mr. Belli: Q. Did Mr. Callahan give you all of those figures out of his mind?

A. He may have prepared something in advance for those figures to confirm. [652]

Q. You say he may have.

A. He may have had them in his mind, because he was unhesitant about giving the figures. He didn't hesitate.

Q. You have a recollection, as you say now, of Mr. Callahan giving all of these figures out of his mind?     A. No, sir.

Q. Well, what did he have in front of him?

A. He had a typewriter with a paper in it, and it was at a counter we had behind which were a lot of old bound form charts, and we had a typewriter. In fact, I used that for myself to write letters, and also for Jules and his dictation. He had this paper in the typewriter and as Mr. Wild had asked me to give him these figures I went over there and he handed me these cards and gave me two sets of figures for each.

Q. Did he take the paper out of the typewriter?

A. No, sir.

Q. Was he sitting at the typewriter desk?

A. Standing.

Q. He was standing at the typewriter and calling off the figures to you?     A. Yes, sir.

(Testimony of Julius Krakauer.)

Q. No question about that?

A. He gave me figures, yes, there is no question about that.

Q. You saw him come into the room, did you?

A. Yes, sir, I believe I did. [653]

Q. What did he copy from to put the figures on?

A. Wait a minute, I don't remember if I saw him come in the room. He might have come from the elevator. I wouldn't want to say I saw him come in the room.

Q. What did he copy from to put the figures in the typewriter? A. I wouldn't want to say.

Q. Didn't you see something that looked like a book?

A. I told you he had a sheet in the typewriter.

Q. In the typewriter? A. Yes, sir.

Q. Wasn't he looking at something to put those figures on the typewriter?

A. Looking at the sheet in the typewriter, yes.

Q. And he was taking these figures out of the air? A. No, I don't believe he was.

Mr. Campbell: If he knows.

The Witness: That's correct, I don't know.

Mr. Belli: Q. You saw him there with the typewriter, sitting there and you were writing these down? A. Yes, sir.

Q. Can't you tell when a man is copying figures from a book, black, or white, or any other color, or picking them out of the air like that?

Mr. Campbell: I object as argumentative

(Testimony of Julius Krakauer.)

The Court: Sustained. [654]

Mr. Belli: Q. You are not prepared to tell the ladies and gentlemen of the jury now, even though you recall the incident of Mr. Callahan sitting there at the typewriter, typing, where he was copying figures from a book or anything else?

A. I say definitely he was not copying figures from a book, because there was no book there except the sheet in the typewriter, and the typewriter and the twelve cards which he handed me.

Q. Was he copying them from anything, or was he taking them out of the thin, blue air?

A. He was not taking them out of the air because there was something on the sheet in the typewriter.

Q. Before he put it in there?

A. How do I know? I was not there when he put it in.

Q. And you don't know what he was copying these from as he was giving them to you?

A. Presumably from the sheet in the typewriter. sir, but there was no book there, however.

Q. Now, Mr. Krakauer, you have told us, and I will pursue you once further on this, that you recall Mr. Snell in the room at the time of your departure; you recall the conversation with Mr. Snell almost word for word, don't you?

A. I didn't talk to Mr. Snell, sir.

Q. You recall you didn't talk to him. Do you recall a conversation [655] that Jules had?

(Testimony of Julius Krakauer.)

A. May I say this, I did talk to Mr. Snell, and bid him good-bye.

Q. Do you recall what you said and what he said?

A. He said he was quite sorry that a long friendship that existed between Mr. Wild and myself should end this way. In fact, he gave me a book to read, or lent me a book to read, but I have lost his address and couldn't return it to him.

Q. You remember this conversation with Snell, these details about how sorry it was that a long friendship should end and so on, and yet—

A. Naturally I would remember that.

Q. But you recall all that word for word, and you recall the language with Mr. Callahan almost verbatim that you had at the bank?

A. Yes, sir.

Q. Yes, as a matter of fact, you recall most of those incidents during that last year of 1943 very well, don't you?

A. Yes, sir.

Q. Can you tell us, Mr. Krakauer, why you cannot remember whether you kept the other records for Julius in this period of time, or not? Do you have a failure of memory or just one subject?

Mr. Campbell: Objected to as argumentative.

The Court: Sustained.

Mr. Belli: Q. You have a failure of memory just on the [656] one subject, is that right?

Mr. Campbell: Same objection, if the Court please.

The Court: Sustained.

Mr. Belli: Q. Do you want to give any further explanation to the ladies and gentlemen of the jury



(Testimony of Julius Krakauer.)

with reference to your not being able to remember whether you kept any other records, or not?

Mr. Campbell: Same objection. It is an incompetent question. He is a witness on the stand, and if counsel has any proper question, he can place it.

The Court: Sustained.

Mr. Belli: That's all, Mr. Krakauer.

### Redirect Examination

Mr. Campbell: Q. I am going to call your attention again to this Exhibit O, a book labeled "Day Book,"—is it your best recollection, Mr. Krakauer, that the entries in there, I notice, in December and January refer to December '39 and January 1940.

A. That is my best recollection. That was poor bookkeeping on my part. Every bookkeeper should put his dates in, but I didn't.

Q. But that is your best recollection?

A. That is my best recollection.

Q. I call your attention to the last few pages of the book, being pages 199 and 200, page 199 being headed "Seabiscuit," [657] and page 200 containing certain matters being a total markers and cash.

A. Yes, sir.

Q. And you have stated, I believe, that that reference to a future book on Seabiscuit.

A. That was the cash position on the winter book, and when I say "winter book" I don't mean he kept it in a winter book. That winter book is a term describing the operation of taking future bets. I want that clearly understood.

(Testimony of Julius Krakauer.)

Q. I understand. Now, these transactions referred to here as the winter book on Seabiscuit; it was in March of 1940 that Seabiscuit ran in the Derby at Santa Anita, or the handicap, whichever race it was, and it was in connection with that race that the future book or winter book you refer to was kept? A. Yes, sir.

Q. So that I call your attention to the fact that the last entry here is February 24. That, I take it—

A. The winter book closes. I don't know what the rule is, but that probably was the closing date of the winter book when no more bets were accepted.

Q. February 24, 1940?

A. Yes, they close in advance. I don't recall the rule on that. In fact, I am not even acquainted with that, even with the experience I had with Jules about the technical part of the [658] winter book, and things of that kind; but they do close in advance, several weeks before, and they don't take any more bets.

Q. Now, I am going to call your attention, as an example, to card No. 1, the period of time ending January 4, 1941, and ask you to compare that with the entries as of under January 4, in Defendant's Exhibit O, and ask you if they bear any relation one to the other as to the amount of cash withdrawn by Julius from the transactions represented on the card, of the salaries and those recorded in the book?

A. Will you please repeat that?

(Testimony of Julius Krakauer.)

Mr. Campbell: I will reframe the question.

Q. Will you state, as shown by that card, how much cash Jules received on January 4, 1941, either by withdrawal or by way of salary?

A. \$50—\$30 for salary—and \$50.

Q. I call your attention under date of January 4, here, there is listed—what are the salary items there?

A. \$10 and \$5.

Q. \$15?

A. Yes, and by the way I call your attention to that “X”—that is extra salary.

Q. \$15 he drew on that day according to this book?

A. Yes, sir.

Q. And what did he withdraw from the book of horse operations? [659]

A. \$110.

Q. So that the figures in this book have no relation to the date of January, 1941, is that correct?

A. I am quite correct on that, sir, and apparently the figures bear that out.

Mr. Campbell: That's all.

#### Recross Examination

Mr. Belli: Q. Wasn't there another book kept, Mr. Krakauer, of the telegraphic bets around the State?

Mr. Campbell: What period, Counsel?

Mr. Belli: '41, '42 and '43.

The Witness: A. That was only kept with reference to two accounts in Modesto, one a doctor whose name, if I recall it, I don't think I should mention. He is still there.

Q. No, I wouldn't mention any names at this

(Testimony of Julius Krakauer.)

stage of the game. I appreciate you haven't before. It seems that doctors all bet on the horses, though.

A. I wouldn't know; I wouldn't say as to that.

Q. But how about the other fellow who had the account with you, was he a doctor, or a lawyer, or what?

A. He was a ranch owner. I also remember his name and I don't want to mention it. He was a big prune grower, whose name I don't want to mention.

Q. Who took whom on that account, do you remember? [660]

Mr. Campbell: Just a minute, what period are you referring to?

Mr. Belli: '41, '42, and '43.

The Court: I cannot see the materiality unless you establish the date.

Mr. Belli: If it shows there was a loss—

The Court: What are the dates?

Mr. Belli: '41, '42, and '43.

The Witness: I think they were in that period, yes, sir.

Q. Where do those accounts appear, in what book?

A. They were kept on cards day by day.

Q. Who kept those?

A. Mr. Hughes and myself. Mr. Hughes kept them and I kept them as they came in, and we checked every night. You asked me who took who?

Q. No, that was the other question a moment ago. Let us stay on this question now. Did you

(Testimony of Julius Krakauer.)

take those cards with you, the prune growers cards and the doctor in Modesto.

A. The doctor stopped betting a long time before I left there.

Q. When did he stop betting?

A. Oh, I should say along in 1942.

Q. These cards go back to 1941—some of them?

A. Yes.

Q. Did you take the doctor's cards and prune grower's cards?

A. When that transaction was all over they were of no future [661] value. They were paid off. The money was wired to him from the Powell Street office of the then Mackay system.

Q. You ever recall the place you wired it from?

A. Because I wired it—

Q. You wired it, yourself?

A. No, I wired it on Mr. Wild's instructions. It was part of my duty. The money was wired to him, if he had anything coming.

Q. Don't you recall keeping records with reference to these bets?

A. Mr. Hughes and myself?

Q. That is another record you recall keeping that you didn't the other day.

A. That was just a daily card. The man wired his bets in, and Mr. Hughes had them, because he was in charge of the room.

Q. Where are those cards?

A. After they were through they were of no further use, because the telegram, itself, was the



(Testimony of Julius Krakauer.)

evidence. The numbers of the horses were listed on the telegram and everything.

Mr. Campbell: Q. Do you know where the cards are, Mr. Krakauer? A. No, I don't.

Mr. Belli: Q. You didn't take those with you?

A. They were not in existence any more.

Q. Were they torn up? A. Yes. [662]

Q. Did you tear them up?

A. Oh, no, sir.

Mr. Belli: All right, Mr. Krakauer, that's all.

Mr. Campbell: That's all.

The Witness: Judge, do you want me to give you anything further on this?

Mr. Campbell: Oh, yes, there was some question asked yesterday. Mr. Belli produced this and it was marked "P For Identification," a sheet which you state you kept for your own amusement, or edification, that you were experimenting with and you were asked if you could ascertain the dates that this record was kept. A. Yes.

Further Redirect Examination

Mr. Campbell: Q. Have you been able to do so?

A. The Judge asked me whether it was kept for my own personal benefit and profit, and I saw enough on here quickly, although my eyes are slow, that I could answer that truthfully "No." This is a further elaboration that I kept for my own, just simply fascination of the Dr. Shornick or operator No 1 system.

The Court: Q. Explain that to the jury.

(Testimony of Julius Krakauer.)

A. I call your attention, your Honor, that these sums shown there is another sheet which hasn't been furnished me, and the sums have been carried forward.

Mr. Campbell: Q. Were the bets set forth here actually [663] made? A. No, sir.

Q. They were theoretical bets?

A. They were theoretical bets based on this system that Dr. Shornick used. [663-A]

Q. Were the losses paid or the winnings actually received?

A. No, except to this extent, in order to bring forward and get the results which I was trying to establish what kind of a profit it would make, I brought forward from the Shornick account the actual figures, and down here you will see what the doctor won.

Q. That is \$2790?

A. Yes, and these are the payments he received; in order not to bring elaborate figures forward, I brought these.

The Court: Q. Is that a transcript of the doctor's winnings and his account?

A. Just down here.

The Court: Q. I am a little confused. Start all over again. Is that a transcript of the doctor's account or not? A. Well—

Mr. Campbell: Q. Will you take this sheet, Mr. Krakauer, and state in your own words just exactly what that is, how it was kept, the purpose for which it was kept, and whether or not the transactions there actually were made.

(Testimony of Julius Krakauer.)

A. This is an elaboration of this doctor's account and here were the totals brought forward and continued down here and it shows that there was \$200 bet to place, as Mr. Hughes testified, and here are the odds and here is the track and here is where the horse won and what position it won and carried on down here; and then in order to account for myself getting a [664] true picture of what the system was, it was the one way I brought forward the totals of the results of the doctor's account, his actual betting. Understand, over the period he bet, I continued as if he had not stopped.

Q. Let me get this straight, then; this figure which you have here on the bottom of \$2790, is that the figure which the doctor that you referred to actually won in 1941, is that correct?

A. Yes, whatever year he bet.

Q. Then do I understand that after that transaction was over, you on a sheet of paper which is Defendant's Exhibit P for identification, carried on the same system in theory?

A. Just to see what it would result in, finally, that is all.

Q. But the entries you have here of horses, the track and so on, and bets and the debit or credit, those were not actual transactions, is that correct?

A. Yes, sir, that is correct.

Q. This figure that you have of \$2790 is the figure which the doctor actually won while he was operating that system?

A. That's correct, sir.

(Testimony of Julius Krakauer.)

Q. And was placed on this sheet for comparison with the system as you were attempting to work it out, is that correct, sir? A. Yes. [665]

Mr. Belli: May I ask something on voir dire?

The Court: Yes.

Mr. Belli: Q. I thought you told us yesterday, Mr. Krakauer, that had nothing to do with the Shornick account. A. I didn't say so.

Q. You didn't say so? A. I did not.

Q. It was entirely separate from the Shornick account; don't you recall telling us that?

A. I don't think I did. I don't believe that is in the testimony.

Mr. Campbell: Q. These entires are not the Shornick account entries?

A. No, except as they are reflected in the total from another record entirely.

Q. The total being \$2790? A. Yes.

Q. And that was just for comparison purposes, is that correct?

A. Yes, I thought I made it plain.

Q. May I ask you, on the theoretical system which you kept, I notice the dates run from 5/31 to 6/36. A. Yes, sir.

Q. That would be from May 31 to June 6. During that period of time, for my information, would the system have won or lost?

A. It would have won. [666]

Q. How much would it have won during that period?

A. It would have averaged around, which I

(Testimony of Julius Krakauer.)

have here—of course I haven't rechecked these figures—about \$600 a month.

Q. About \$600 a month? A. Yes.

Q. I think you stated yesterday, however, that no bookie would accept his system, is that right?

A. Well, I won't say that—go ahead.

Q. I believe you stated also that the bet was accepted for about a period of three months by Mr. Wild.

A. I am not sure of that. The other day when—

Q. Well, how long was it?

A. I would say about two and a half months, not quite three months. Maybe it was longer than that, but I don't think so.

Q. Does that figure, \$2790, represent the entire winnings of Dr. Shornick during that period of time?

A. I believe so. It was taken from another record and that I can't tell you positively, but I am quite sure that represents the entire winnings.

Q. Coming back to this Exhibit Q, I am going to ask you, did you ever see this book again after you left Julius' employment, and by that I mean Julius Wild? A. No, sir.

Q. You have never seen that until it was presented to you on the stand? [667]

A. No, sir.

Q. You don't know where it was from the time you left his employ until it was presented to you?

A. Not from the time I stopped, and why it was stopped I wouldn't undertake to say.



(Testimony of Julius Krakauer.)

Q. After you made the last entry, you have no recollection of seeing that?

A. I may have, but I have no definite recollection.

Mr. Campbell: That's all.

Recross Examination

Mr. Belli: Q. If you knew where this book was at the time you left Mr. Wild, you would have lifted this, too?

Mr. Campbell: I object to this question as argumentative.

Mr. Belli: Well, I can withdraw the word "lift" and say you would have taken it.

The Court: May I admonish you, Mr. Belli, on these argumentative questions.

Mr. Belli: Yes, your Honor.

Q. I notice you answered a question here that you could not answer "truthfully". Do you distinguish between your testimony on this when you use the word "truthfully"?

A. Well, what I mean—

Mr. Campbell: Let him finish his question and then let me object, Mr. Krakauer.

Have you finished your question, Mr. Belli?

Mr. Belli: Let's go on to another one.

Q. What were you doing with this system? Were you just going to warm up and see how it came out and then going to bet?

Mr. Campbell: That is objected to as immaterial.

The Court: Objection overruled.

(Testimony of Julius Krakauer.)

The Witness: A. I kept records of that kind on a lot of systems, but I never bet. Everybody that gets into this sort of thing that has a fascination for figures says that. I know a lot of fellows that do.

Q. And you kept a system on these horses that ran in the winter book? Wasn't there a system that entailed that? A. No.

Q. But even though you saw this system win and you saw other systems win, it didn't shake you to the point of playing your own money or other people's money?

A. I play horses very moderately. That is in the testimony.

Q. Did you play any system?

A. Yes, sir.

Q. Did you play this system?

A. No, sir, I stated over and over again nobody would do that.

Q. Where did you try to play this system and for how much?

Mr. Campbell: Objected to as immaterial.

The Court: Objection overruled.

A. With Mr. Coughlin on Eighth Street through his chief clerk, Jimmy Ross. [669]

Q. How much? A. \$25.

Q. You couldn't play that on \$25?

A. Oh, yes, any amount. The amount doesn't mean anything.

Q. Didn't you have to have a nut, and using "nut" in the other vernacular of around \$2,000.

(Testimony of Julius Krakauer.)

A. It only took \$2500 to bet 200 and make a nice winning, which the doctor did. So you can reduce that from 200 to 25 and you can get your proportions.

Mr. Belli: That's all.

The Court: Q. Mr. Krakauer, several questions I have in mind. A. Yes, sir.

Q. You say you made in the vernacular several small bets during the course of time?

A. Not on this system—generally?

Q. Yes. A. Yes, I did.

Q. What do you mean by several?

A. Your Honor, may I state this: I bet horses that win a third of their races so that a horse that I bet will win one in three times and if the odds are right I can make a little money.

Q. How did that run, in \$2 bets or \$5 bets?

A. It depended on the odds of the horses. [670]

Q. If the prevailing odds were favorable, you might play a \$20 bet. A. Very rarely.

Q. What would you bet average?

A. Five, probably, and I only bet at one track at a time. All of my bets were limited.

Q. Where did you place your bets during this period?

A. Through Mr. Coughlin, first, with his partner, and Mr. Bob Hughes, but that isn't the Bob Hughes that testified here—and through his chief clerk, and if I am allowed to state, I tried to find Mr. Ross last night to come up here and testify, but I didn't contact him.

(Testimony of Julius Krakauer.)

Q. You would say the majority or greater bulk of your bets were placed through Coughlin?

A. Yes.

Q. Did you keep a list of your winnings for the purpose of accounting?

A. Yes, sir, they are reflected in these bank statements that I have brought here.

Q. Did you deposit your winnings in the bank statements?

A. Everything goes through my commercial account in the Bank of America.

Q. Did you keep a little resume of your winnings, your losses as indicated, perhaps, in the same fashion as you did for the doctor? [671]

A. Yes, sir.

Q. Where is that?

A. I haven't bet a horse in over three years.

Q. Where is that list?

A. I haven't got it, sir.

Q. In preparing your income tax returns, no doubt, you had that list, did you? A. Yes.

Q. Where is it now?

A. I deposited it in the bank, sir, and kept a copy of it. I haven't got a list.

Q. Perhaps I am inarticulate, I don't know. You bet through Coughlin? A. Yes, sir.

Q. You made bets on the average of five to twenty dollars a day? A. Yes, sir.

Q. A day. Did you average \$20 a day?

A. No, sir. I don't think I would average \$20 a day.

(Testimony of Julius Krakauer.)

Q. What would your average be a day?

A. Maybe \$15.

Q. \$15 a day?

A. Yes, sir, something like that.

Q. Did that system of betting prevail all during the time you were employed by Julius Wild?

A. Very often I would follow a jockey.

Q. Then, on the average you would bet approximately \$15 a day during that period?

A. Not every day.

Q. Well, on an average—I am taking the mean average while you were employed by Julius Wild, is that correct?

A. Yes, sir.

Q. Did you keep a little book of your winnings and your losses so that at the end of a given period, say, six months or one year, you could say, “I won so much or lost so much.”

A. Yes, sir.

Q. You kept that book?

A. Yes, sir.

Q. Do you have that book now?

A. No, sir.

Q. Where is the book?

A. After I made my returns and there was no further use for it, it was just figures and I used it in making my returns and I had no further use for it. I haven't bet any horses for the last three years of any kind any place—yes, three and a half years.

Q. And I assume you never bet against your book or against Julius Wild's book?

A. No, sir. [673]

Q. That is an inviolate rule?

A. That's right.



(Testimony of Julius Krakauer.)

Q. Now, did Mr. Wild know you were betting during that period of time?

A. I did it openly, yes, sir.

Q. When you were making bets in Coughlin's?

A. Yes, sir, I did it openly, sir.

Q. One further question on this yellow sheet.

A. Yes, sir.

Q. This, as I understand it, as you informed Mr. Campbell, represents a compilation and follow through from the system established through the doctor's betting, isn't that true?

A. Yes, sir.

Q. It is really a follow through?

A. Yes, sir.

Q. In other words, there is a point of cleavage when the doctor's betting discontinued, you followed it on to find out whether or not the doctor's system would ultimately result in a loss.

A. Or stand up under time.

Q. Or stand up under time.                      A. Yes.

Q. And that system was, as I understand it, according to your testimony, any odds laid six to five at any tracks—

A. Six to five at any tracks—when the race was over there was a horse in there that had closed at six to five or better— [674]

Q. And the amount wagered would be \$200?

A. \$200, that's correct. It shows it right there.

Q. You say the figures at the top of the page have to do with the doctor's account?

A. They were a guide. Those were a continuation. The doctor, I think, stopped in about October or November and then I carried another sheet

(Testimony of Julius Krakauer.)

and this was—I must have filled up a sheet because the figures are carried forward. I carried it through about a year or nine months.

Q. Where did you keep the figures concerning the doctor's account? Where were they kept, in a black book, the little five cent notebook, or were they kept in the sheets or the three decks of cards?

A. They were kept first by Mr. Hughes.

Q. Where, and which Hughes?

A. The gentleman who testified.

Q. Bob Hughes?

A. Yes, sir, he was assigned to do it first and I checked him every day because it was quite important. At \$200, if you made an error in figuring the odds, that could throw you very badly off either way, and he checked me. Sometimes I would get down early and figure it and he would check me. Bob first kept them on a card he had gotten up. When I was compelled to take the job, concerning which he testified in the Alameda Court, I continued in this tablet I spoke of yesterday. [675]

Q. That is the so-called five cent tablet?

A. Yes, and when that was over, when Mr. Wild finally took his loss and stopped the doctor's bets and I continued it, there is a carry-forward item that came from another sheet and I carried it down to the bottom there.

Q. Do you know whether Mr. Callahan or Mr. Wild or you took into consideration this doctor's account in formulating the figures which finally were placed on these twelve or eleven cards?

(Testimony of Julius Krakauer.)

A. I couldn't say as to that.

Q. You wouldn't know?

A. No, sir, I don't know what Mr. Callahan took into consideration.

Q. Am I clear in stating to you that Mr. Callahan dictated to you?

A. I say that absolutely.

Q. Did he have any papers at all?

A. Not except the one that was in the typewriter that had some markings on it.

Q. Did you at any time during the course of this dictation ask Mr. Callahan, "Now, Mr. Callahan, where did you get these figures?"

A. I told Mr. Callahan himself, remember, "These figures are not in keeping with the cards in question."

Q. By "these cards" you mean 7, 8 and 9?

A. Yes, 7, 8 and 9.

Q. What did he say?

A. He said, "Just forget about those."

Q. Did you ask him whether they took into consideration the outside room as well as the inside room?

A. No, I had been asked by Mr. Wild to give Mr. Callahan this information and I was complying with my instructions.

Q. Mr. Wild told you that?

A. Mr. Wild came to me and said Mr. Callahan needed some figures to substantiate a tax return.

A. I thought you took the figures dictated by Callahan.      A. What?

(Testimony of Julius Krakauer.)

Q. Didn't you tell me Callahan dictated the figures to you?

A. Mr. Wild came to me and said Mr. Callahan required some figures to substantiate a tax return; I should give them to him. Then I went over to Mr. Callahan who was at the typewriter and he dictated these figures to me.

Q. Then, in lieu of your giving figures to Callahan, as I understand your testimony, Callahan was giving figures to you?

A. When he said I was to give him figures I supposed I was to be given an opportunity to get them from the cards or somewhere. Instead, Mr. Callahan told me what to write on these cards.

Q. Did you protest at any time?

A. I told him that they were not in keeping with these cards [677] and he said to forget about them.

Q. How long did this process you have described endure; over what period of time did this mathematical operation take place, with Callahan at the typewriter and you writing on these cards? How long did it take you to write on these cards?

A. Perhaps 20 minutes.

Q. Did Callahan sit at the typewriter or make that compilation at the typewriter unaided or unassisted by you?

A. He was giving me figures to write on these 12 cards to cover one year.

Q. And where did he get those figures?

A. I wouldn't undertake to say. I have no way

(Testimony of Julius Krakauer.)

of knowing where he got those figures.

Q. Did you go to Julius Wild and protest at any time in connection with your acting as sort of a clerical arm in the operation of getting those figures on the 11 cards?

A. I did, sir, yes, sir.

Q. Were you in the employ of Mr. Wild at the time the original tax returns were filed with United States Government, and I mean by that, 1941, '42 and '43?

A. Yes, sir, I was.

Q. You were, then, his bookkeeper?

A. To the extent of those cards.

Q. Who prepared the original returns?

A. I don't know; I never saw the returns. [678]

Q. You never saw the returns?

A. No, I never.

Q. You had nothing to do with the preparation of the original returns?

A. No.

Q. It was not until Mr. Callahan came to you that any mention was ever made to you about income tax?

A. No, I think the testimony here will show that Mr. Lippert—who turns out to be Mr. Lippert, but I didn't know then was Mr. Lippert—came into the room early one morning before Mr. Wild was there and I saw him and Bob and this gentleman talking, and later on Bob came over to me and said that that was a man from the Internal Revenue and that he was questioning Jules' return. Well, I said, "Is there any question about it?" or indicated some interest in it, naturally.



(Testimony of Julius Krakauer.)

Q. You said, "Is there any question?"

A. I said, "What is the question?" and he said "It appears that is incorrect." This man showed Mr. Hughes this return and he gave me the figure, some \$2500 or something like that. That is the gross return—maybe \$3500 and I said, "I think Jules will have some explaining to do."

Mr. Belli: Will you speak a little louder, please, Mr. Krakauer?

The Court: This is out of the presence of Mr. Wild and if there is an objection it would have to be sustained. [679]

Mr. Belli: But I have not urged any objection and I do not object.

The Court: Yes, that is correct, you have not urged any objection. However, I wanted to expose these matters so we have every facet of the case.

Q. Was Mr. Wild present when you and Mr. Callahan and Mr. Lippert were there?

A. I don't know when or at what place Jules talked to Mr. Lippert if he ever did, because I was not present. The only time I ever saw Mr. Lippert was when he talked to Mr. Hughes.

Q. Did you assume to indicate to this Court and jury that the three sets of cards, 7, 8 and 9, purport to represent the full, complete exposition of the operation of that bookmaking establishment during the years in question?

A. Only as to what was going on in the front room. I couldn't say otherwise.

Q. Now, at the time you had this discussion

(Testimony of Julius Krakauer.)

with Mr. Callahan and at that time he was at the typewriter, was there any discussion at that time between you and Callahan or Wild or Lippert with respect to the operation of the back room?

A. No, sir, there was none whatsoever except as I have stated, that I was asked to give Mr. Callahan these figures and I did so, sir.

Q. Mr. Callahan is perfectly able to write, is he not, in the sense that he can write, spell and read? [680] A. Right.

Q. There is no question about that?

A. There is no question about that.

Q. You tell me now your sole province was to take down in writing on these 11 cards and transcribe information which Callahan read out to you?

A. Yes, sir.

Q. And that was your sole and exclusive province? In other words, you just took the figures he read to you?

A. That is all he did with reference to them. They wanted the cards in my handwriting, and of course, because it had to be in somebody else's handwriting, and Mr. Callahan had probably made the remark.

Q. Why did they have to be in your handwriting? A. That is an assumption on my part.

Q. Callahan sent the returns in?

A. Yes.

Q. Why did they have to be in your handwriting? Is that an assumption on your part?

A. That is an assumption on my part, but I know they were in my handwriting.

(Testimony of Julius Krakauer.)

Q. When you said a moment ago, Mr. Wild told you to give figures to Mr. Callahan, is that correct or is that incorrect? A. That's correct.

Q. Did he tell you the kind of figures to give to Mr. Callahan? [681]

A. No, just figures.

Q. Did you in fact give figures to Mr. Callahan?

A. No, he gave them to me.

Q. Where did he get them?

A. From the paper on the typewriter, as far as I know.

Q. And the whole business lasted how long?

A. Twenty minutes—maybe not that long.

The Court: That's all I have.

*Recross Examination*

Mr. Belli: Q. During the twenty minutes there must have been some conversation between you and Mr. Callahan?

A. No, he gave me the first figures and then he would hesitate a while and then give me the second.

Q. You have a mental picture of hesitation. When he hesitated, was he typing?

A. No, he wasn't.

Q. Why did he hesitate?

Mr. Campbell: I object to that.

The Court: I think we are entitled to have a full exposition of what transpired between Mr. Callahan and this witness. Serious charges are being made and I think we should have a complete exposition. There are repercussions that come out of this matter that concern the Court. I am not

(Testimony of Julius Krakauer.)

concerned with hypertechnicalities. I want a complete disclosure.

Mr. Campbell: I agree with the Court. [682]

Mr. Belli: Let me do it then.

Mr. Campbell: But I am not concerned with any inferences and assumptions, if the Court please, but only with the facts.

The Court: In fairness to the prosecution, this gentleman has given me several assumptions when I asked him questions, isn't that true?

The Witness: Yes, sir.

Mr. Campbell: That probably is true, your Honor.

The Witness: And I stated them as assumptions, if your Honor will remember.

The Court: I want the facts; the Government wants the facts; the defense wants the facts.

Mr. Belli: Q. Let me start with this this way, Mr. Krakauer: It is a truism that there is no way we can reconstruct the past with moving pictures or anything else. The only think we have to rely on in this case is your memory; and you have in your mind's eye a picture, as you reflect back and think to yourself, and you see Mr. Callahan, apparently.

Mr. Campbell: Just a moment. I object to the argumentative form or exposition by counsel.

The Court: I will sustain the objection.

Q. You recall the scene pretty vividly?

A. Yes, sir.

(Testimony of Julius Krakauer.)

Q. Now, recalling the scene vividly will you answer the questions? [683]      A. Yes, sir.

Mr. Belli: Q. You recall the scene vividly and you recall it was twenty minutes or so?

A. That I think is about correct.

Q. Now, Mr. Callahan had all the figures written on a piece of paper on the typewriter and you came to him, is that right?

A. I don't remember the figures from the paper, whether the figures he dictated to me were on the typewriter or not—I don't know that.

Q. How close did you sit to Mr. Callahan?

A. We were both standing right there. I was to the side of him.

Q. He was not seated at the typewriter?

A. No, you had to stand to write at that typewriter. The counter was too high.

Q. Were you touching elbows, perhaps?

A. I don't remember as to that.

Q. How close were you?

A. Standing side by side.

Q. Standing two feet apart?      A. Maybe.

Q. Standing two feet apart, now, do you recall in that 20 minutes whether Mr. Callahan had any other records there?

A. He may have had some records, writing on the other side. He usually carried a briefcase.

Q. Did he or did he not have the briefcase?

A. Well, yes, he did, I presume it was over on the other side.



(Testimony of Julius Krakauer.)

Q. Well, do you remember whether he did that day or not?      A. Not positively.

Q. Did you see him take anything out of this briefcase?      A. Not while I was there.

Q. Did he touch the keys of the typewriter at all during the 20 minutes?      A. He did not.

Q. Was there any appreciable period of time after you would write down on the card before he would, as you say, dictate the figures?

A. There was some lapse of time.

Q. During the lapse of time, what was there, silence?

A. I would just wait for him to give me the next figure.

Q. What was he doing?

A. I don't know; he was thinking, I guess. He was not handling the papers, I can say.

Q. He had the paper in front of him on the typewriter with the figures?

A. But I don't know whether he was making or whether he was giving them from that or not.

Q. Standing two feet away from him?

A. I couldn't have read two feet away with my eyes.

Q. Do you say because your poor vision maybe you couldn't [685] have seen what he was reading from?

A. That might be true. And I couldn't do it now, and I am older too, and I have worn glasses since I was a small child.

Q. Another subject, Mr. Krakauer: At least it

(Testimony of Julius Krakauer.)

was in 1941 that you destroyed these papers you had reference to bets, didn't you?      A. 1941?

Q. Yes, or was it 1942?

A. I have always made my return each year. After that they were of no use to me. I only keep my bank records and cancelled checks.

Q. In 1941 and 1942 you destroyed records of your own?      A. Yes, sir.

Q. Didn't you tell us a moment ago, Mr. Krakauer, that the reason that you were taking care of these cards here was because you thought you would need them, that you were in a tax jam?

Mr. Campbell: I am sorry, but I can't hear you, Mr. Belli.

Mr. Belli: Well, let's have the Reporter read it.

(Question read.)

Mr. Belli: Q. Is that right?

A. No, sir, in a tax jam personally?

Q. Well, your motive in taking these cards, as you testified, as to protect yourself if Julius were to take you to the Government? [686]

A. Based on the statement of his not to do him any harm in this matter, because I was in it as deep as he was, and not being a tax expert I assumed there might be some reason for it.

Q. And while you were taking Julius' cards from his business, you were tearing up your own, is that right?

A. No, I only destroyed them when they were of no further use for tax purposes.

(Testimony of Julius Krakauer.)

Q. You bet in 1943, didn't you?

A. Yes.

Q. You threw those cards away, didn't you?

A. Yes.

Q. How did you think it would help you by taking Julius' cards and tearing up your own, Mr. Krakauer?

A. I didn't know what action might be taken on the papers.

Q. Weren't you the one that advised Julius as you told us from the stand the other day, that he better have records and keep all his cards?

A. I didn't do that. I think Mr. Callahan did, however, but I **didn't**.

Q. By the way, your average of betting there was about \$5 more than what you were making. Weren't you making \$10 a day?

A. Yes, but I was not betting every day.

Q. But you averaged, as you told us, \$15 a day?

A. Yes.

Q. And you were not working every day, were you? [687]

A. When I was working for Mr. Wild, I was.

Q. And besides betting \$5 a day more than you made, you were able during the period to loan Julius some \$7,000, is that right?

A. On only one occasion, to help him out on the Sea Biscuit loss.

Mr. Belli: That's all, Mr. Krakauer.

(Testimony of Julius Krakauer.)

Redirect Examination

Mr. Campbell: Q. Just one question that I overlooked, Mr. Krakauer: How much did Julius Wild owe you, to the best of your recollection, on January 1, 1941?

A. Probably around \$3500—maybe \$3000. That is very hard for me to say.

Q. Would your best recollection be it was at least \$3000?

A. I believe so. At no time did he owe me over \$5000 except on the occasion of this \$7000 loan.

Q. Well, is it your best recollection that it is \$3000? A. Yes.

Mr. Campbell: That's all.

Recross Examination

Mr. Belli: Q. You told us the other day, Mr. Krakauer, that you didn't know. Do you recall your testimony given the other day when you were under oath in this Court here that you said you didn't know?

A. My best recollection now is \$3000 and that is very hard to [688] say, and I repeat that is very hard to say.

Q. Well, if you didn't know the other day or jogged your memory to jump it up to \$3000, just because it is Thursday—is that what you did?

A. It might be \$2500 or it might be \$3000. That is my best recollection. That is all.

Mr. Belli: All right. That's all.

(Testimony of Julius Krakauer.)

Mr. Campbell: Q. That is your best recollection—\$3000? A. Yes.

Mr. Campbell: That's all.

### EMMA WILD,

recalled as a witness on behalf of defendant; previously sworn.

### Further Direct Examination

Mr. Belli: Q. With reference to this book, the exhibit by the defendant, Exhibit O, and what has been referred to as the cash book, were you the one that found this book?

A. Yes, Mr. Belli.

Q. Where and when did you find it?

A. I found it—when the book was closed permanently after they declared—

Q. By the "book" you mean Mr. Wild's business?

A. I mean Mr. Wild's business, and all the furnishings and everything was put in the far corner of the basement at 1182 Market Street, his place of business. They were there in storage for quite some time and then finally Mr. Harper—you see, the Government took that building over and they had to put offices in the basement. He had his offices down there and a beauty parlor and other places. So Mr. Harper called and said they needed the



(Testimony of Emma Wild.)

space where all these furnishings and tables and so forth were, so I hired—

Q. Well, you got a moving company and you had them moved?      A. Yes.

Q. Did you look with the Government representatives for any other books?

A. Well, after finding that—let me get to my story. You [690] know Julius had a lot of pictures over the wall. If he had one he must have had a couple of hundred.

Q. All horse pictures, I presume?

A. Yes, and they were put in big cartons and I know that was his hobby, and there were so many fine pictures that I had the drayman ship them down to my home in Redwood City, and they were just stored. We have rafters, and they were stored up in the rafters.

Q. Well, you are keeping us all in suspense. Will you bring us to the time when you and the Government looked for the books?      A. Yes.

Q. Did you find any?

A. No, but I didn't look through these pictures up above on this rafter, and here about two months ago I found that book, and I went to clean out the garage, and I looked through everything, and that book was among some of those pictures, and it was sort of stuck into the side.

Mr. Belli: That's all; you may cross-examine.

Mr. Campbell: No questions.

## JULIUS WILD,

recalled as a witness in his own behalf; previously sworn.

## Further Direct Examination

Mr. Belli: Q. You recognize this book, Defendant's Exhibit O, called the cash book?

A. Yes.

Q. That writing in there is Mr. Krakauer's, isn't it? [691]

A. Every figure in these books is Mr. Krakauer's.

Q. Do you know whether he was keeping other books besides these cards?

A. Mr. Krakauer kept four or five books everywhere.

Q. Did he do a lot of betting on the side?

A. A lot of betting? One day alone he lost \$300 and reached in and said, "Jules, I need some money." He went to bet with Coughlin and used to bet through the runners, like Frank Kaiser.

Q. When was it the horses took Mr. Krakauer for \$300?

A. That system comes up so often and you have to keep following it. You needed that much to keep going through.

Q. Did you take a chance on the system?

A. Did I take a chance on the system?

Q. Yes. A. Yes.

Q. You tried it, yourself?

A. I tried it for two or three or four thousand dollars worth.

(Testimony of Julius Wild.)

Q. I don't mean with Dr. Shornick, but did you try and place a bet with some other bookie?

A. No.

Mr. Belli: That's all. Any questions, gentlemen?

Mr. Campbell: No questions.

Mr. Belli: Defendant rests, your Honor.

(Defendant rests.) [692]

WILLIAM BURKETT,

recalled as a witness in behalf of the Government in rebuttal; previously sworn.

Direct Examination

Mr. Campbell: Q. Mr. Burkett, you have heretofore been identified as the agent of the Intelligence Unit in charge of the investigation of this case.

A. Yes, sir.

Q. Now, during the course of that investigation did you interview the wife of Julius Wild, Emma Wild, I believe is her name?

A. Yes, sir.

Q. Who appeared here on the stand?

A. Yes.

Q. Did you attempt to ascertain what assets, if any, either Julius Wild or Emma Wild had as of January 1, 1941?

A. We went into that quite carefully.

Q. Did you do that with Mrs. Wild?

A. Yes.

Q. When did you interview Mrs. Wild?

A. According to my notes, it was—the original notes are dated December 16, 1946, and are entitled, "Interview with Mrs. Wild at office."

(Testimony of William Burkett.)

Q. Is that the date on which you interviewed Mrs. Wild?      A. Yes, sir. [693]

Q. Did you at that time question her as to any cash or money which may have been on hand, either in her possession or in her control or in the possession and control of Julius Wild?      A. Yes.

Q. Will you state what she told you in that regard as to cash?

A. Referring to my notes again, she stated that the property in Larkspur at 127 Locust, a house and lot—

Q. I am asking you about cash.

A. No, the only cash she had was what she had in the bank account at Larkspur.

Q. Was that question specific as to the date that she had any cash in the bank, in the savings account at Larkspur?

A. Yes, we covered from the time she went to Larkspur up to the present time, as of the date of that interview. At each stage I wanted to know the bank accounts she had and the name of the bank, and whether it was in her name, and with Julius, or alone.

Q. And it also covered the period of January, 1941?

A. Yes, I had the returns clear back to 1933 before me.

Q. Did you ask her specifically as to cash other than cash in bank accounts?      A. Yes.

Q. What did she tell you?

A. She said none other than that reflected in the bank accounts.

(Testimony of William Burkett.)

Q. At any time during the investigation did Mrs. Wild or Mr. [694] Wild, or anyone else, ever tell you anything about \$20,000 in a safe deposit box, or in a home? A. No, sir.

Q. When was the first time you heard about a \$20,000?

A. When Mrs. Wild stated it on the stand yesterday was the first time I ever heard about a \$20,000.

Q. Or any other sum which was kept in the home? A. That's right, sir.

Q. There has been some testimony here by Mr. Hughes, who appeared on behalf of defendant, his attention having been called to his statement under oath where he stated that the only records he had to show were the cards, Government's Exhibits 7, 8 and 9—

Mr. Belli: Just a minute, that is not the testimony. I resent a misstatement of the testimony.

Mr. Campbell: Very well, I will reframe the question.

Q. I call your attention to the testimony of Mr. Hughes, and in fact I will refer to the record—

Mr. Belli: I might, Counsel, to save time, state that it is objectionable for counsel to ask him to comment on a summary of another witness' testimony.

Mr. Campbell: I will ask my questions, Mr. Belli, and you can make your objection.

Mr. Belli: Thank you.

Mr. Campbell: Q. Your attention is directed to testimony [695] given here by Mr. Hughes, wherein Mr. Hughes' attention was directed to a statement given by him prior to his appearance on



(Testimony of William Burkett.)

the stand, and which statement was under oath, wherein he gave the following answer to the following question:

“Q. Were any bookkeeping records of any kind kept of the race horse bookmaking business of Mr. Wild?

“A. The only records were small cards.”

In Mr. Hughes’ testimony, in explaining that answer, he stated that he had also advised you, Mr. Burkett, that there was a black book. Did Mr. Hughes at any time you interviewed him ever advise you concerning the existence of a black book or other account book other than the cards, Government’s Exhibits 7, 8, and 9?

Mr. Belli: Just a minute, that is objected to as leading and suggestive, and compound, and argumentative, and asking him to comment on the testimony of another witness; and furthermore, it is not proper redirect examination.

The Court: Objection overruled.

The Witness: A. Mr. Hughes was under oath—

Mr. Belli: Just a minute, that is the vice of this, and that is why I objected.

The Witness: Could I have the question again?

Mr. Campbell: Q. The question was, did Mr. Hughes, during any interviews you may have had with him, mention the existence of any black book or any book other than the cards, Exhibits [696] 7, 8, and 9?

A. No, he never mentioned there was a black book of any kind or a book.

Mr. Campbell: That’s all.

(Testimony of William Burkett.)

Cross Examination

Mr. Belli: Q. He was not asked with reference to a black book, was he, Mr. Witness?

A. I asked Mr. Hughes under oath what records were kept and he pointed to the cards on the table and said, as I recall it, "Those are the only cards that Mr. Wild has—records."

Q. Everything that was said in that interview was written down here, isn't it? A. Yes.

Q. Are you positive?

A. Well, there was one thing Mr. Hughes wanted to keep off of the record.

Q. Then don't say what it is, and I don't want it if it is going to be another prejudicial statement.

A. You can have it if you want it.

Q. No, I don't want any more prejudicial statements.

Mr. Campbell: Just a minute, let us not get argumentative. He did not volunteer the statement.

Mr. Belli: But he would like to.

Q. With reference to Mr. Wild's cash, she told you there was a safe deposit box over in Fairfax, or San Anselmo some place? [697]

A. Larkspur, and I went to the bank to verify it.

Q. And there was, wasn't there?

A. In 1937 and 1938. She didn't have—

Q. When did the bank close?

Mr. Campbell: Just a minute, let him finish his

(Testimony of William Burkett.)

answer. Will you read his answer as far as he got, Mr. Reporter?

(Record read.)

Mr. Campbell: Q. Did you finish the answer?

Mr. Belli: Q. Go ahead.

The Witness: A. The record of the American Trust Company, Larkspur accounts are before me. The commercial account was opened in 1933, April 19, and closed November 3, 1933, and the sum amount of money deposited—opened with \$300 and closed with \$45, and the total amount deposited was \$466.02 during that period in 1933. The amount withdrawn was on November 3, 1933.

Q. We are not talking about that. We are talking about the safe deposit box.

A. Yes, there was one for 1937 or 1938, and that was not under investigation, and we have no access to that box.

Q. You did not ask her anything about it?

A. I asked her, because I wanted—

Mr. Campbell: Not because, just what you asked her.

The Witness: A. I asked her if she had any cash anywhere, any place, other than in a bank, and she said, no, the only [698] thing she had was as reflected in the bank account. So I went to the bank and found they had nothing to do with the years in question and they were very minor accounts.

Q. Let us take only the safe deposit. Did you ask

(Testimony of William Burkett.)

her what was in the safe deposit box during those years?

A. I asked her if there was any cash.

Q. Are you positive?

A. Any bonds, securities, jewelry, anything of value.

Q. Are you positive you asked her?

A. Yes, I did.

Q. Didn't you just say you were not interested because she was not under investigation for those years?

A. But the point there is that there might be some securities, stocks and bonds, that might have some dividends that would come in in 1943, 1944.

Q. Did you ask her to go through the box?

A. Did I?

Q. She had a box in San Francisco, didn't she?

A. There was no record I can find in 1941 to 1943 that she had a box, but Julius had a box to go in and out for silver money in which his employees had access to.

Q. Is that a box that both he and Mrs. Wild had access to?

A. No, that was for Julius and a man named Collard for this nut that they started off each day with.

Q. You went down to Redwood City to look for the black book, [699] didn't you?

A. No, I never went to Redwood City. At that time Julius was calling it one green book in a green desk.

(Testimony of William Burkett.)

Q. The green desk?

A. So we had to find it. There was one book and it was green at that time.

Q. Before the trial began, at least, you went some place looking for other records, didn't you?

A. I told Mr. Wild if there were any other records we would be glad to look at them. We went even to his storage place and to his office and tried to give the man the benefit of the doubt, if there was any doubt.

Mr. Campbell: Just a minute, Mr. Burkett.

Mr. Belli: I am going to assign these remarks of this witness as misconduct.

The Court: The only objectionable portion of the answer was "trying to give the man the benefit of the doubt, if there was any doubt," and that may go out and the jury are instructed to disregard that.

Mr. Belli: Q. Julius told you that Mr. Hughes told you long before he had even had counsel, or, as he put it, a mouthpiece, that there were other books besides these records?

A. Mr. Hughes said those were the only records and he kept the top part of it.

Q. Mr. Wild said there were other records?

A. Mr. Wild said there was a green book and I asked him to produce it and he was not able.

Q. How many records did Mr. Krakauer tell you there were?

A. He said those were the only records.



(Testimony of William Burkett.)

Q. Let us put it this way so there won't be any confusion about it.

The Court: That is another year; that is 1940.

Q. I didn't ask you about that year.

A. I am sorry.

Q. That's all right. He told you these were the only records, Mr. Krakauer? A. Yes.

Q. And you believed him and you did not believe Julius? A. Well—

Mr. Campbell: That's objected to.

Mr. Belli: Withdraw the question. That's all.

Mr. Campbell: That's all.

SAMUEL ZEMAN

recalled as a witness on behalf of the Government in rebuttal; previously sworn

Mr. Campbell: Do you wish the man from Maxferd's recalled, or will you stipulate to this thousand dollars?

Mr. Belli: You better call him.

Mr. Campbell: Q. Mr. Zeeman, you testified here the other [701] day as of January 1, 1941, that there was a balance due from Julius Wild to the firm you represent of Maxferd's of \$1000. Since that time, or yesterday, there was some question raised concerning the accuracy of that statement. Will you now state if you have re-examined your records, and what they disclose as to the liability of Julius Wild to your firm as of January 1, 1941?

A. Yes, sir, the other card was self-explanatory and said it was taken—if I may see the last card. It says that he owed it in 1941.

(Testimony of Samuel Zeman.)

Q. I am referring to Defendant's Exhibit H. You have found the additional card, have you?

A. Since then, yes, but on that card—

Q. And you have produced a card bearing the date of February 12?

A. That is the date of the loan.

Q. Bearing the date of February 12, and March 16, 1941, it was paid, is that correct?

A. Yes, that's right.

Q. Will you examine that, sir, and these other records, if you wish, and state what amount, if any, Julius Wild owed you, Maxferd's, on January 1, 1941? A. On January 1, 1941, he owed \$1000.

Q. Right. Now, as of December 31, 1943, did he owe you any money? [702] A. December, 1943?

Q. December 31st—on that day.

A. Yes—none.

Q. None is right. You have produced an additional card of your records?

A. Yes, it was a 1941, and it was put away seven or eight years, and I had to look for it.

Mr. Campbell: I ask it be incorporated with Exhibit H.

Mr. Belli: We stipulate.

The Court: So ordered. These records are to be returned to this witness' office?

Mr. Campbell: Yes.

The Court: The Government will have photo-stats made?

(Testimony of Samuel Zeman.)

Mr. Campbell: Yes. That's all.

Cross Examination

Mr. Belli: Q. As I understood your testimony the other day, so I will have this clear, Mr. Bougher was going over some figures with you and you told him you were in error or that part.

A. He didn't owe \$1000, according to the other card.

Q. Now, you found out he did?

A. Yes, it was over eight years, and it took me considerable time to find it, but according to this he did owe \$1000.

Mr. Belli: That's all. [703]

Mr. Campbell: That's all.

As to the balances in the American Trust Company, Civic Center Branch, do you desire me to produce the man form that bank on the stand, or will it be stipulated as to the balance, as I believe it has been previously stipulated?

Mr. Belli: What is it?

Mr. Campbell: Will it be stipulated that the balance in the American Trust Company, Civic Center Branch, Commercial Account, January 1, 1941, was \$142.75, and that the balance as of December 31, 1943, was \$2108.82?

Mr. Belli: We will stipulate to that.

Mr. McMillan: At this time, may it please your Honor, the Government rests.

(Government rests.)

The Court: May the record now show that the defendant's rests?

Mr. Belli: Yes, your Honor, the defense rests.

Defendant Rests

(Thereupon following the usual admonition, the jury was excused until 2:00 o'clock p.m., at which time the arguments of counsel were made.)

[704]

CERTIFICATE OF REPORTER

We, Official Reporters and Official Reporters pro tem, certify that the forgoing transcript of .... pages is a true and correct transcript of the matter therein contained as reported by us and thereafter reduced to typewriting, to the best of our ability.

/s/ F. J. SHERRY,

/s/ ELDON N. RICH.

[Endorsed]: Filed Sept. 30, 1948.

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[Endorsed]: No. 12053. United States Court of Appeals for the Ninth Circuit. Julius Wild, Appellant, vs. United States of America, Appellee. Transcript of Record. Appeal from the District Court of the United States for the Northern District of California, Southern Division.

Filed October 26, 1948.

/s/ PAUL P. O'BRIEN,

Clerk of the United States Court of Appeals for the Ninth Circuit.